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Tuesday,
12th May, 1953

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

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THE

PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Tuesday, 12th May, 1953

The House met at a Quarter Past Eight of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

REORGANISATION OF SERVICES SCHEMES

***2036. Shri M. L. Dwivedi:** Will the Minister of **States** be pleased to state:

(a) whether the schemes of re-organisation of services, fixing up of scales of pay, allowances etc. replacing the old ones in certain Part C States such as Vindhya Pradesh, Himachal Pradesh and Bhopal have received the approval of the Central Government;

(b) on what models these schemes have been framed;

(c) when these schemes are likely to come into operation in the respective States;

(d) what is the additional expenditure, if any, which will be incurred in each State, as a result of the implementation of these schemes;

(e) whether in any State, any such schemes was interdependent upon certain other proposals purporting to reduce the strength of employees and establishments etc.;

(f) if so, what has happened to such proposals; and

(g) whether the implementation of any such of them or part of them is still under consideration?

The Minister of Home Affairs and States (Dr. Katju): (a) Yes.

(b) On the model of adjacent Part A States.

(c) The schemes have been given retrospective effect from 1st April 1950 in all cases except in Himachal Pradesh where the scheme was enforced with effect from the 1st September 1948.

(d)

Manipur	Rs.	6,63,564 Approx.
Kutch	Rs.	6,14,000 Approx.
Tripura	Rs.	10,46,636 Approx.
Bhopal	Rs.	6,00,000 Approx.
Vindhya Pradesh	Rs.	9,00,000 Approx.

Bilaspur The proposal for the revision of scales as admissible in Himachal Prabesh and Punjab has been held in abeyance in view of impending merger of Bilaspur with Himachal Pradesh.

Himachal Pradesh. As the reorganisation was effected immediately after the formation of the State, it has not been possible to obtain the information.

(e) The schemes of re-organisation of services and fixation of scales of pay at revised rates involve a screening of the Government servants taken over from the former State regimes. Those who are found below the standard in respect of educational and other qualifications are either kept on trheir previous scales of pay or retrenched. The scheme also involves the abolition of redundant departments and in some cases reduction in establishment.

(f) With the exception of a few departments, the scheme has been implemented in all the Part C States under the Ministry of States except Bilaspur.

(g) Yes. The departments concerned are—

Central Garage department, Guests and Stores department } Kutch

Industry, Commerce and Labour department } Tripura

Education department

श्री एम० एल० द्विवेदी: मैं माननीय मंत्री महोदय से जानना चाहता हूं कि भाग 'ग' राज्यों में जो पुनः संगठन हुआ है यह पहली बार हुआ है या इससे पेश्तर भी इस सम्बन्ध में संगठन हो चुका है, और यदि हो चुका है तो इस पुनः संगठन की कौन सी आवश्यकता थी ?

डा० काटजू: सी० स्टेट्स के बनने के बाद पहली बार हो रहा है । इसके पहले अगर रिआरगेनाइजेशन हुआ हो तो मुझे मालूम नहीं ।

श्री एम० एल० द्विवेदी: मैं जानना चाहता हूं कि 'क' राज्यों और इन राज्यों की सेवाओं के वेतन आदि में कितना फ़र्क़ होगा और किस राज्य के अनुसार यह संगठन किया गया है ?

डा० काटजू: जवाब तो दिया गया है कि उस स्टेट से जो पार्ट 'ए' स्टेट मिली हुई हैं उसके आधार पर रिवीज़न किया गया है अगर आप किसी रियासत की तफ़सील के बारे में कोई अलग सवाल पूछना चाहते हैं तो मैं उसका जवाब दे सकता हूं ।

श्री एम० एल० द्विवेदी: कुछ भाग 'ग' राज्य ऐसे हैं जिनके आस पास कई राज्य हैं । मिसाल के लिये विन्ध्य प्रदेश से लगे हुए उत्तर प्रदेश और मध्य प्रदेश दोनों हैं । इसी प्रकार मध्य भारत के पास बम्बई और राजस्थान आदि हैं । तो किस राज्य के अनुसार यहां संगठन किया गया है ?

डा० काटजू: मध्य भारत तो सी० स्टेट नहीं है ।

श्री एम० एल० द्विवेदी: भोपाल ।

डा० काटजू: जहां तक विन्ध्य प्रदेश का वास्ता है मेरा ख्याल है कि वहां उत्तर प्रदेश के आधार पर रिवीज़न हुआ है । और जो आपने भोपाल के बारे में पूछा तो यहां पार्ट ए० स्टेट मध्य प्रदेश के आधार पर हुआ होगा, यह मध्य भारत से मिला नहीं है ।

Central Marketing Board for Mica

***2037. Shri N. P. Sinha:** (a) Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether any of the Mica-producing States demanded of the Government of India to set up a Central Marketing Board for Mica in the past?

(b) If so, which of the States and when?

(c) Is the question still receiving consideration or has it been turned down by the Government of India?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) and (b). The Government of Bihar has, since the publication of the report on the Mica Enquiry Committee in 1946, urged on the Government of India from time to time to set up a Central Marketing Board for Mica.

(c) The proposal was fully considered for the last time in 1952, in consultation with all interests affected, but was rejected because it was considered inadvisable that Government should bear the risk of loss arising from the marketing operations of the proposed Board.

Shri N. P. Sinha: May I know whether the smaller interests in Madras, Rajasthan and Bihar were consulted on this point?

Shri K. D. Malaviya: Yes, Sir From time to time, as I said, meetings of the advisory committees were held and the various interests were consulted.

Shri Nanadas: In the absence of a Central Marketing organisation, may I know whether there is any other organisation or body which will regularise the prices and exports of mica and checkmate the cutthroat-competition in the mica trade?

Shri K. D. Malaviya: So far as marketing is concerned there is no board or any equivalent body. The Planning Commission finally recommended with regard to the marketing

question of mica that the smaller producers should set up co-operative organisation and the scheme drawn up by the Planning Commission should be circulated to the State Governments requesting them to convene a meeting of the producers to discuss the matter with a view to making a start towards setting up of co-operative organisations.

Dr. Ram Subhag Singh: Arising out of answer to part (c) of the question may I know, Sir, the nature of the risk involved in the setting up of a Central Marketing Board?

Shri K. D. Malaviya: The main risk is the fluctuation in prices as a result of speculation. This was evidenced by past events: prices used to fluctuate very heavily. Therefore, Government was not prepared to take risks so far as speculation was concerned.

Shri L. N. Mishra: May I know the estimated amount of loss by setting up the Mica Board?

Shri K. D. Malaviya: I cannot give any financial estimates. I have laid down the general principles that Government do not accept the proposal of a Central Marketing Board.

Shri N. P. Sinha: May I know the main reasons which were taken into consideration at the time of rejecting this proposal; is that decision still open to revision?

Shri K. D. Malaviya: No, Sir, so far as the present decision of Government is concerned, it is final.

Shri Nanadas: May I know, Sir, how Government is going to regulate the mica trade?

Shri K. D. Malaviya: There is a mica advisory board which meets from time to time gives advice to trade as well as to the Government from all points of view, whether it is price, or quality or standardisation. They look to these questions and advise the traders, also.

SCHEDULED CASTES SCHOLARSHIPS

***2039. Shri S. V. Ramaswamy:** (a) Will the Minister of **Education** be pleased to state whether the second instalment of scholarships for Scheduled Castes and Backward Classes students have been distributed?

(b) If so, when?

(c) After the closing of the Institutions for the summer recess are Government aware of the inconvenience caused to such students due to the delay in payment of scholarships?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) Yes Sir, except in a few cases sanctioned late in March against cancellations.

(b) During the months of March-April, 1953.

(c) The Government realise that delay in payment causes difficulty to the students but the delay was unavoidable.

Shri S. V. Ramaswamy: Can Government give an assurance that the Scheduled Caste students will not be put to any difficulty?

Shri K. D. Malaviya: It is our endeavour to see that there is no delay. Some of the reasons which are responsible for the delay are (1) students refuse the Central scholarships because the State scholarships in some cases are higher than the Central Government scholarships; (2) scholars fail to secure admission to the proposed course and cannot avail themselves of the scholarships; (3) the necessary information from the State Governments was received late.

Shrimati A. Kale: May I know how many girls are taking advantage of these scholarships?

Shri K. D. Malaviya: I am sorry I have not got the information about the number of girls.

Shri S. V. Ramaswamy: Would it be possible to place the funds at the disposal of the State Governments to be disbursed in proper time?

Shri K. D. Malaviya: It is found more expeditious for this Government to make payments direct through the heads of institutions concerned.

Shri N. R. M. Swamy: What is the interval between the two instalments? How many months after the first instalment does the second instalment come?

Shri K. D. Malaviya: The first selection was made in August 1952, the second was made in December 1952, the third was made in February 1953, and the fourth, against all cancellation, was made in March 1953

Shri Muniswamy: May I know whether there have been any complaints from students, particularly from the Law College and the Presidency College, Madras, regarding delay in the distribution of the amount by the authorities?

Shri K. D. Malaviya: I do not know whether there was a complaint from the Law College, but there were certain complaints made and I have already stated the reasons.

Shri Nanadas: May I know what steps are being taken by Government to avoid all possible delay in the distribution of the amount in the current year?

Shri K. D. Malaviya: I have already said that we are trying to get things dited, in all possible ways

Shri Ganpati Ram: May I know whether it is a fact that some students already awarded State Government scholarships have rejected the Government of India scholarships and if so, whether those stipends have been awarded?

Shri K. D. Malaviya: Yes, Sir. Some of the students who were awarded Central Government scholarships refused them because the State Government scholarships were higher. In their places the scholarships have been awarded to other students.

RURAL INDEBTEDNESS

***2040. Shri Jhulan Sinha:** Will the Minister of Finance be pleased to state:

(a) the latest position regarding the nature and extent of rural indebtedness in India; and

(b) the measures proposed to liquidate the same?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Exact data regarding rural indebtedness in India are not available. The latest authoritative estimate in this regard is the one made in 1931 by the Indian Central Banking Enquiry Committee which put the total indebtedness at about Rs. 900 crores. While no data are available to show how much of this debt has been liquidated in recent years as a result of the rise in agricultural prices, the Rural Banking Enquiry Committee (1950) has expressed the view that the indebtedness has probably been reduced and especially the debts of large and medium landholders have been reduced substantially.

(b) Agricultural indebtedness is a State subject and the measures that are necessary to liquidate it fall within the sphere of action of the State Governments. The States have been taking necessary steps as and when circumstances require.

Shri Jhulan Sinha: May I know if the extent of indebtedness of the poorer section of the people has increased or decreased since the last enquiry was held?

Shri A. C. Guha: As I have already stated, we have not got any definite data. Only, the Rural Banking Enquiry Committee's opinion is that due to the rise in the prices of agricultural products, large and medium size agriculturists have benefited as regards the liquidation of their indebtedness. We have no definite data as regards the smaller agriculturists' indebtedness.

Shri Kanungo: May I know what are the surveys or studies conducted by the various Governments, particularly Madras, in this regard?

Shri A. C. Guha: There might have been so many of them I am not in a position to state just now.

Shri Jhulan Sinha: May I know if in the Enquiry held in 1950 there is an expression of view that the poorer section of the people have been less benefited by the rise of agricultural prices?

Shri A. C. Guha: I have already stated that that is the position; but we cannot give any definite opinion. But I do not know how far that position is exactly correct.

Shri V. P. Nayar: May I know whether Government have made any efforts to assess the relationship of rural indebtedness to the system of land tenure which is so oppressive to the landless tillers?

Shri A. C. Guha: Among the different measures taken by the State Governments there is also one regarding reorganisation of land tenure. So Government must have taken that into consideration.

Shri T. S. A. Chettiar: In view of the conflict of opinion in various parts may I know whether Government would consider the advisability of having an enquiry into rural indebtedness in the country?

Shri A. C. Guha: The Reserve Bank is seized of the matter and there is a special department of the Reserve Bank which is looking into this thing and a survey Committee has also been set up by them to look into this.

Shrimati A. Kale: May I know how much land has been taken over by the creditor on account of the inability of the debtor to pay the debt?

Shri A. C. Guha: I have not got the information with me just now.

Shri L. N. Mishra: May I know why the money market in the rural areas has of late proved to be so tight when the prices of agricultural crops have not fallen down so heavily?

Shri A. C. Guha: The question follows from a premise which I am not in a position to accept just now.

श्री आंगड़े : क्या मैं जान सकता हूं कि किन किन राज्यों में देहात के किसानों के क़र्ज़ को कम करने के लिये डेट कंसिलिएशन बोर्ड स्थापित किये गये हैं और मनी लेंडर्स ऐक्ट बने हैं ?

Shri A. C. Guha: I think all the Part A States and almost all Part B States have taken measures, including the one suggested by the hon. Member.

Shri Thanu Pillai: How is the Economic Adviser's Department assessing the economic situation in the country without an assessment of the situation with respect to rural indebtedness?

Shri A. C. Guha: Sir, it is more or less a question of argument

Shri A. M. Thomas: May I know whether Government have a comprehensive scheme for setting up co-operative land mortgage banks to relieve rural indebtedness and, if so, may I know what help they are intending to give?

Shri A. C. Guha: One of the major steps in this direction is the setting up of land mortgage banks, and this has also been recommended by the Rural Banking Enquiry Committee.

COMPENSATORY ALLOWANCE TO RAILWAY EMPLOYEES AT TANJORE

***2041. Shri Venkataraman:** Will the Minister of **Finance** be pleased to state:

(a) whether according to recent census figures, the Railway employees in Tanjore have become eligible for payment of city allowance;

(b) whether city allowance is being paid to the said employees; and

(c) if not, the reasons therefor?

The Deputy Minister of Finance (Shri M. C. Shah): (a) No, Sir.

(b) No, Sir.

(c) Only those towns which had a substantial excess over one lakh on the basis of 1951 census figures were included in the list of Class 'C' towns. Since Tanjore did not satisfy this criterion, it was omitted from the list.

Shri Venkataraman: May I ask what my hon. friend means by 'substantial excess over 1 lakh'—is it 20,000, or what is the figure?

Mr. Deputy-Speaker: That was already asked the other day.

Shri M. C. Shah: I had already stated "15 per cent." the other day.

Mr. Deputy-Speaker: That was asked threadbare the other day. Next question.

REPRESENTATIONS FROM DISPLACED PERSONS OF SIND

***2042. Shri Gidwani:** Will the Minister of **Rehabilitation** be pleased to state:

(a) whether Government have received representations from organisations of displaced persons from Sind and from displaced Sind public workers including the Congressmen that the properties left by Sind Hindus and Sikhs in Sanitary Committee areas there be treated as urban properties on par with the properties left in the Small Town Committees of Punjab;

(b) whether Government have considered the same; and

(c) if so, what their decision is?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) Yes.

(b) Yes.

(c) Reference to the provisions of clause (d) of Section 2 of the Displaced Persons (Claims) Act, 1950 will

indicate that the Sanitary Committees do not come within the definition of "urban area". Government have, therefore, no power to treat them as "urban areas".

Shri Gidwani: Are Government aware that these Sanitary Committees in Sind were wholly elected bodies with elected Presidents and the value of these properties was not only equal but in some cases higher than those included in the urban areas in the Claims Act?

The Minister of Rehabilitation (Shri A. P. Jain): So far as the election goes, it may be so. But so far as the properties are concerned, there Government does not accept the premises that they were of a higher value than the corresponding properties in the urban areas.

Shri Gidwani: Is it a fact that before the rationalisation scheme was introduced these properties were treated as urban properties and assessed as such but subsequently when they were called for revision not only the claims were reduced but in some cases they were cancelled?

Shri A. P. Jain: They were never accepted as urban property.

Shri Gidwani: Is it a fact that they were assessed?

Shri A. P. Jain: If they were not accepted, they could not have been assessed.

Shri Gidwani: Is it a fact that by treating the properties in these areas as well as in many other rural areas as rural properties not only the unfortunate claimants were denied their legitimate share of compensation but the value of the properties is being reduced thus doing harm to our cause nationally and internationally?

Shri A. P. Jain: That is totally wrong because the method of assessing the value of urban and rural properties has been the same and as such no distinction was made.

Settlement of Displaced Persons in Hyderabad

***2044. Shri Krishnacharya Joshi:** (a) Will the Minister of **Rehabilitation** be pleased to state whether it is a fact that Government of Hyderabad have agreed to settle some families of displaced persons from Pakistan in the district of Nizamabad?

(b) If so, what steps are being taken by the Government of India for the resettlement of those displaced persons?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) Yes.

(b) The representatives of the families willing to go to Hyderabad have been advised to go and see for themselves the land available in the State. Thereafter, the families will be sent to Hyderabad if they agree to accept this land.

Shri Krishnacharya Joshi: May I know how many families of displaced persons are going to be settled down in Hyderabad?

Shri J. K. Bhonsle: 46.

Shri Krishnacharya Joshi: Have Government given any financial aid to this scheme?

Shri J. K. Bhonsle: Rs. 2,000/- per annum.

Dr. Suresh Chandra: May I know whether these families are only Sindhi families or there are Punjabi families also?

Shri J. K. Bhonsle: These are from Parachinar and North West Frontier Province.

Shri Heda: In view of the fact that a fertile land of more than 500 acres which has been owned by the former Premier of Hyderabad is there in Hyderabad, may I know whether Government are considering to distribute this land to refugees and in case they are not forthcoming, whether they are going to settle the local people on that land?

The Minister of Rehabilitation (Shri A. P. Jain): I believe the hon. Member refers to Mir Laik Ali's farm. A part of the farm has been settled on one year's basis with a local party, the rest of it is being given to the refugees.

Shri Heda: It has been given only for a year or two. May I know what is going to be decided in future?

Shri A. P. Jain: Government have not taken a final decision regarding this property. Meanwhile these lands are being settled by people outside the Punjab only on a yearly basis.

Dr. Suresh Chandra: Is it a fact that this Laik Ali farm is being allotted only to the Sindhi refugees against the Punjabi refugees? If so, why this discrimination?

Shri A. P. Jain: There is no question of discrimination. In fact the Punjabi refugees have benefited more than the Sindhi refugees. Every landowner and every tenant in the Punjab has been given lands in Punjab and PEPSU on a quasi-permanent basis or otherwise by allotment.

Dr. Suresh Chandra: May I know whether Government have received any representations from the Sindhis themselves that they do not want land to be allotted there?

Shri A. P. Jain: We have not yet received any representation. On the other hand, there is a demand by the Sindhis that people from North West Frontier Province and the Bahawalpuris should be allotted lands.

COST OF LIVING INDEX

*2045. **Dr. Amin:** (a) Will the Minister of **Finance** be pleased to state how the figures for the Cost of Living Index are worked out?

(b) Is it a fact that the prices of consumers' goods have gone down recently?

(c) If so, what are the reasons which keep the Cost of Living Index so high in spite of the prices of consumers' goods going down?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) The cost of living index is prepared with reference to changes in the cost of purchasing of representative collection of consumer goods as compared with the cost in a defined base period.

(b) Yes, Sir. Generally, the prices of a number of consumers' goods have registered a downward tendency since the middle of 1952.

(c) In 15 out of 16 industrial centres for which the Labour Bureau issues cost of Living Indices, there has been a downward trend since June-July, 1952. In other industrial centres for which State Governments issue their own indices, some centres have occasionally shown an upward movement. These are attributable partly to the composition of these indices and partly to local conditions. The All India Average Working Class cost of living index combining 24 different indices, in keeping with the downward trend of prices of consumers' goods, shows, on the whole, a declining trend since the peak attained in the last quarter of 1951.

Shri Nanadas: May I know what steps have Government taken to work out figures for the cost of living index of agricultural labourers and to publish them?

Shri B. R. Bhagat: This refers to the cost of living in the urban areas, and labour industrial centres.

Shri Nanadas: Cost of living.....

Mr. Deputy-Speaker: That is irrelevant.

Dr. Amin: May I know whether these figures of cost of living give the correct indication regarding the trend of the prices?

Shri B. R. Bhagat: I think so.

Shri Altekar: May I know whether the house rent is taken into consideration in arriving at the cost of living index?

Shri B. R. Bhagat: House rent is one of the considerations.

Shri L. N. Mishra: May I know the industrial centres where the cost of living was the highest in the year 1952?

Shri B. R. Bhagat: Cost of living has been highest in cities like Bombay, Sholapur and Kanpur.

Shri Raghavaiah: May I know whether the cost of living index has fallen to such a stage as to be on a par with the purchasing power of the common man which has fallen * * *?

Mr. Deputy-Speaker: I will omit the latter part. It is not a matter for argument. Hon. Members are not expected to give their opinions here. They are only asked to put questions.

Shri Raghavaiah: I shall amend the question May I know whether the cost of living index is on a par with the purchasing power of the common man?

Shri B. R. Bhagat: As I have stated, there is already a general downward trend in the cost of living. I do not know what the hon. Member means by saying "on a par". I think that since July 1952, there is a continuing downward trend and I think the purchasing capacity and the prices are synchronising.

***Expunged as ordered by the Chair—Ed. of P.P.

BLANKETS FOR DISPLACED PERSONS

*2046. **Shri Gidwani:** Will the Minister of **Rehabilitation** be pleased to state:

(a) whether the attention of Government has been drawn to an item of news published in the "Indian Nation" of Patna, dated the 10th April, 1953, from its staff correspondent to the effect that a huge stock of blankets, intended for the use of displaced persons valued at about rupees fifty thousand, lying in the Phulwari Refugees Camp, was reduced to dust and disposed of by burning;

(b) whether another stock of about five thousand shirts, trousers and blankets at Biharsharif which was lying there for the last few years was detected to be with a stockist by a Minister of the Bihar State Government; and

(c) if so, whether Government have taken any action in the matter?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) to (c). All the articles concerned belong to the Government of Bihar, who, it is understood, are making the necessary enquiries. The articles were intended for the victims of the Bihar riots of 1946.

INDIAN BANKING COMPANIES ACT

*2047. **Shri A. M. Thomas:** (a) Will the Minister of **Finance** be pleased to state whether representations have been made by various Banking Institutions in Travancore-Cochin regarding difficulties which they will have to encounter on the wholesale application of the Indian Banking Companies Act?

(b) If so, what are the main requests contained in their representations?

(c) What steps have Government taken on these representations?

(d) How many Banks have made these representations?

(e) How many Banks (Public Limited) are there in Travancore-Cochin?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). Yes, Sir. The main points raised in the representations relate to (i) the difficulties which the banks will have to encounter if they are required to comply with section 24 of the Banking Companies Act, and (ii) the classification of the figures relating to Kuri transactions in the balance sheet and the various returns prescribed under the Act.

(c) An officer of the Reserve Bank was recently sent to Travancore-Cochin to study the problem on the spot and he has submitted his report. Section 53 of the Banking Companies Act provides for exemptions being granted to banks to avoid hardships and certain exemptions are under consideration by Government in respect of banks in the Travancore-Cochin area.

(d) 88 banks.

(e) According to the information available, there are at present about 163 banks incorporated in and confining their activities to the State of Travancore-Cochin.

Shri A. M. Thomas: In the list of demands, I do not find the exemption sought from Section 11 of the Indian Banking Companies Act. Do not the representation cover this also?

Shri A. C. Guha: Yes, Sir. This question has been receiving the constant attention of the Government and of the Reserve Bank. Only yesterday some representatives of the Travancore-Cochin Banks and some members of this House met the Ministry and discussed matters and I can say that after the discussions, members were fully satisfied.

ORDNANCE FACTORIES

*2049. **Sardar A. S. Saigal:** Will the Minister of **Defence** be pleased to state whether Government have examined the report of the Kalyanwala Committee relating to the production in the Ordnance Factories and the potentiality of utilizing ordnance factories for production of civilian requirements in addition to Defence stores?

The Deputy Minister of Defence (Shri Satish Chandra): Government have examined the report of the Kalyanwala Committee. The report does not relate to production in Ordnance Factories but to scales of pay, conditions of service, etc., of labour employed in different installations including Ordnance Factories.

Government have separately examined the possibility of utilising

surplus capacity in the Ordnance Factories for production of goods to meet civilian requirements

Sardar A. S. Saigal: Is it a fact that two Members of the Kalyanwala Committee, a Joint Secretary of the Ministry of Defence and a Joint Secretary of the Ministry of Labour recommended that the permanent nucleus of industrial employees in ordnance factories might be maintained?

Shri Satish Chandra: The Kalyanwala committee report, as I said, refers to scales of pay and conditions of service. It did not go into the production side at all.

Sardar A. S. Saigal: May I know whether it is a fact that the representative of the Ministry of Labour further recommended that the possibility of utilising the surplus manufacturing capacity should be fully explored for finalising the permanent nucleus?

Shri Satish Chandra: There is a proposal before the Government for making the best possible use of the Ordnance factories. That matter is being examined. It is possible that the Members of the Kalyanwala Committee might have mentioned it in the report also. But, that was not the purpose of the Committee and this subject was not covered by the terms of reference of that committee. There might have been some mention of these points also in the Report.

Shri G. P. Sinha: May I know whether the cost of production in Ordnance factories is greater than that in the commercial producing centres?

The Prime Minister (Shri Jawaharlal Nehru): Cost of production of what?

Mr. Deputy-Speaker: There are so many articles produced in an Ordnance factory. There cannot be a general question. Next question.

Shri Nanadas: What are the quantities and what are the articles of civilian requirements that are being manufactured in the Ordnance factories now?

Shri Jawaharlal Nehru: I can hardly give a list straight off the articles of civilian use manufactured there. But, I might inform the House that at the present moment we are paying very special attention to making use of the Ordnance factories for the purpose of manufacture of civilian goods. There are various difficulties in the way which we hope to overcome. The Ordnance factories had been put up for a special purpose. They have to be adjusted sometimes for the production of other goods; may be some small plant is necessary or something else. The hon. Member asked for cost. It is not particularly easy straight off to say the cost of anything. It depends on how you calculate, whether you calculate it with all the overheads, etc. All these matters are being gone into now.

Shri G. P. Sinha: Is it a fact that there is difficulty because the cost of civilian goods produced in the Ordnance factories is greater in comparison to other commercial firms?

Shri Jawaharlal Nehru: That is a matter of calculation. If you put all the overheads of the huge structure, it may well be greater; otherwise it may not be.

Shri Velayudhan: What steps have Government taken to avoid further retrenchment of Ordnance factory workers?

Mr. Deputy-Speaker: That does not arise out of this question.

Shri Velayudhan: That arises.

Shri Satish Chandra: It has been pointed out just now and several times before also in this House that the possibility of producing articles for civilian use and the articles which are imported at present, is being examined. It is possible that we will be able to formulate concrete proposals very shortly.

Shri N. M. Lingam: May I know whether the Five-Year Plan has taken into consideration the possibility of reaching production in the Ordnance factories up to the installed capacity of the plants?

Shri Jawaharlal Nehru: I do not think the Five-Year Plan has gone into this matter deeply; but we are going into it.

Orders placed on India Store Department London

***2650. Sardar A. S. Saigal:** (a) Will the Minister of Defence be pleased to state whether Government have examined the working of the India Store Department at London during the last four years up to 31st December, 1952?

(b) Is it a fact that orders are being placed on the I.S.D., London for articles which could easily be manufactured in the Indian Ordnance Factories?

The Deputy Minister of Defence (Shri Satish Chandra): (a) The India Store Department, London is controlled by the Ministry of Works, Housing and Supply which examines its work.

(b) Normally orders are placed on the I.S.D., London, only for those articles which cannot be procured or manufactured in India. There may, however, be some cases in which the stores capable of being manufactured in the Ordnance Factories are ordered because the requirements of such items may be so small that it would be highly un-economical to manufacture them in this country. Such items are, therefore, obtained from U.K. through I.S.D., London.

Sardar A. S. Saigal: May I know whether the I.S.D., report has pointed out that the Ministry of Defence is placing orders for articles which are available or which could be manufactured in India?

Shri Satish Chandra: The prescribed procedure when placing an order is to send indents simultaneously to the Director General of Supplies and Disposals, to the Development Wing in the Commerce and Industry Ministry and to our Director General of Ordnance Factories. All of them examine whether this particular store could be manufactured or could be procured in the country. If indigenous sources are discovered, the indent on the India Store Department is immediately cancelled.

Sardar A. S. Saigal: May I know whether it is a fact that the I.S.D. report on page 17, para 11 says that if these stores are purchased in India, the cost will be cheaper?

Mr. Deputy-Speaker: That is clear.

The Deputy Minister of Works Housing and Supply (Shri Buragohain): May I answer this question, Sir, on behalf of my colleague the Deputy-Minister of Defence? It is true that the Regional Committee for the London organisation has reported that a large number of contracts placed by them are for small items. That is the problem that has been pointed out by them and that is under examination by the Ministry of Works, Housing and Supply in consultation with the Ministry of Defence and also the Ministry of Commerce and Industry. They have pointed out that thirty per cent of the contracts are for the value of £30 and less and another 20 per cent. are of the value between £30 and £100. So, roughly about 50 per cent. are for stores of the value of £100 or less.

Shri G. P. Sinha: In view of the fact that we are maintaining surplus labour in the Ordnance factories, the ultimate cost of production will be cheaper here because we have to pay the labourers whether we manufacture things or not.

Shri Satish Chandra: The position as stated by the hon. Member is not quite correct. Our Ordnance factories have got about 50,000 workers. According to present work load there may be a surplus of about 3,000 workers shortly. By manufacturing additional items, we propose to utilise the services of all these labours. At present they are not surplus. They will be surplus in a month or two. We are planning for future months.

Shri Nanadas: What are the main items of articles which are not produced in India, but which are imported from the U.K.?

Mr. Deputy-Speaker: How can all of them be given here. Hundreds of them are there. The hon. Member may kindly put down a question and elicit answer. Next question.

TRAINING OF DISPLACED PERSONS IN VOCATIONAL TRADES

***2051. Shri A. N. Vidyalankar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the number of displaced persons trained in Vocational Trades up to 31st March, 1953;

(b) the number of those trained in 1952-53 and the expenditure incurred in their training; and

(c) whether Government have employed any method to make sure whether the displaced persons so trained are gainfully employed or not?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) to (c). The information is being collected and will be laid on the Table of the House in due course.

लाला अचित राम: क्या गवर्नमेंट की तरफ़ से इन सेंटर्स के निरीक्षण का कोई इंतज़ाम है कि वहां पर विद्यार्थियों को ठीक तरह पर ट्रेनिंग दी जाती है ? जो वर्क सेंटर्स हैं उन के निरीक्षण के लिये गवर्नमेंट की तरफ़ से कोई इंतज़ाम है या नहीं ?

श्री जे० के० भोंसले: हां, स्टेट्स गवर्नमेंट्स उसका इंतज़ाम करती हैं ।

लाला अचित राम: क्या आपको मालूम है कि वह निरीक्षण कितनी देर से होता है, तीन महीने बाद, छः महीने बाद, या साल भर बाद ?

श्री जे० के० भोंसले: हमेशा होता रहता है, तीन महीने बाद ।

लाला अचित राम: क्या आप बतल सकते हैं कि पिछले निरीक्षण की रिपोर्ट जो थी वह क्या थी ? क्या आप के पास रिपोर्ट पहुंची है कि वह निरीक्षण कैसा हुआ और उस निरीक्षण का नतीजा है ?

श्री जे० के० भोंसले: वह रिपोर्ट हमारे पास नहीं आती । वह स्टेट्स गवर्नमेंट के पास जाती है ।

लाला अचित राम: क्या आप के पास ऐसी इत्तिला है कि जो विद्यार्थी इन ट्रेनिंग सेंटर्स में तालीम हासिल करते हैं वे अपने पूरे समय में इतनी महारत हासिल नहीं कर पाते कि अपना काम बाद में शुरू कर के चला सकें ?

श्री जे० के० भोंसले ; सब के साथ ऐसा होता है ।

लाला अचित राम: क्या आप को इस बात का इल्म है कि ऐसे बहुत से विद्यार्थी हैं जो कि अपना ट्रेनिंग का पीरियड खत्म करते हैं, लेकिन उनको इतनी महारत हासिल नहीं होती कि वे अपना काम चालू कर सकें ? क्या आपको इसकी इत्तला है ?

पुनर्वास मन्त्री (श्री ए० पी० जैन): सब तरह के विद्यार्थी होते हैं । कुछ सीख जाते हैं, कुछ रद्दी होते हैं जो नहीं सीख पाते और छोड़कर चले जाते हैं ।

लाला अचित राम: माननीय मंत्री जी ने इसी तरह से पहले भी कई बार जवाब दिया है । लेकिन मैं अर्ज़ करना चाहता हूं कि क्या कोई ऐसा इंतज़ाम है कि जो विद्यार्थी अपना कोर्स ठीक तौर पर समय से नहीं सीखते हैं वह उसको ठीक से सीख सकें, क्या आप ने कोई उसके लिये इंतज़ाम किया है, क्योंकि आपकी गवर्नमेंट का मुख्य काम ट्रेनिंग देने का है ।

श्री ए० पी० जैन: कुछ तो इतने रद्दी होते हैं कि उनको चाहे जितने अरसे तक रखें, वह आगे नहीं सीख सकते ।

Lala Achint Ram *rose*—

Mr. Deputy-Speaker: I have allowed too many questions on this.

Reduction of Gazetted and non-Gazetted Appointments

***2052. Shri A. N. Vidyalankar:** Will the Minister of **Finance** be pleased to refer to the answer to Starred Question No. 107 asked on the 7th November, 1952, and state:

(a) whether the information asked for in parts (a), (b) and (c) of the question is now available;

(b) whether the "special unit", consisting of the officers of the Home and Finance Ministries, referred to in the answer to part (d) of the question, has completed its work;

(c) what economies this 'unit' had suggested, and how far these suggestions have been implemented; and

(d) what is the total amount so saved?

The Deputy Minister of Finance (Shri M. C. Shah): (a) A statement showing the number of posts reduced and the number of posts newly created from 15-8-1947 to 1-11-1952 and the consequent savings and increases in expenditure, is placed on the Table of the House. [*See* Appendix XI, annexure No. 52.]

(b) The 'special unit' when its work is completed would have reviewed the staffing of all the Ministries of the Government of India and over 200 attached and subordinate offices under them inclusive of all the outstation offices. The unit has so far covered the Ministry of Food and Agriculture and its 27 attached and subordinate offices, the Ministry of Irrigation and Power and its attached office, the Central Water and Power Commission, the Ministry of Labour and 4 offices under it and the office of the Union Public Service Commission. It has also made a preliminary report on the headquarters office of the Chief Controller of Imports and Exports. The Unit is at present engaged on the review of the Directorate of Posts & Telegraphs.

(c) and (d). The economies so far suggested come to a total of Rs. 96 lakhs and are distributed as follows between the Ministries and establishments reviewed:—

1. Ministry of Food & Agriculture and its attached and subordinate offices . Rs. 67 lakhs
2. Ministry of Irrigation & Power and the Central Water & Power Commission. . . . . Rs. 17 lakhs
3. Ministry of Labour and its attached and subordinate offices . . . . Rs. 4 lakhs
4. Office of the Union Public Service Commission Rs. 0·42 lakhs
5. Office of the Chief Controller of Imports & Exports Rs. 7·4 lakhs

A number of recommendations made by the Unit in respect of the Food & Agriculture Ministry and its attached and subordinate offices and of the Central Water & Power Commission (Power Wing) have already been accepted by Government. The rest of the recommendations about those organisations and those pertaining to the offices mentioned at items 3, 4, and 5 above are being actively progressed.

The recommendations already accepted would result in a recurring saving of about Rs. 24 lakhs a year. Steps are being taken to implement those accepted reductions in staff.

Shri A. N. Vidyalankar: In the statement laid on the Table, it is shown that the number of gazetted posts reduced is 353 and that of newly created gazetted posts is 823, and the number of non-gazetted posts reduced is 2,060 and newly created posts 3,955. May I know whether all or most of the personnel affected by such reduction have been absorbed in the newly created posts?

Shri M. C. Shah: It is usually the practice to absorb the retrenched personnel if they are found qualified for the posts newly created.

Shri A. N. Vidyalankar: May I know whether, in fact, the reduced personnel have been absorbed or not?

Shri M. C. Shah: I haven't got that information in detail.

Shri A. N. Vidyalankar: It is stated that certain economies have been affected, but the statement shows that by the reduction of Gazetted posts Rs. 36,89,843 have been saved, and Rs. 64,21,083.....

Mr. Deputy-Speaker: How can we go into all those details? The question ought not to have been allowed. We are going into too many details.

Shri Vidyalankar: This statement shows that no economy has been effected, and instead of that, more expenditure has been undertaken. So, how can it be stated that economy has been effected?

Shri M. C. Shah: As I have already stated, this team has been working since 1952—after the middle of 1952—and they have examined only four or five Ministries. The statement shows all the posts from 1947 to 1952. So, the economy effected will be apparent when all the Ministries have been examined and processed.

Mr. Deputy-Speaker: Next question. Hon. Member may look into those reports. They are voluminous reports. Question No. 2054.

An Hon. Member: What about 2053?

Mr. Deputy-Speaker: Hon. Member may kindly follow the proceedings. The other one has been transferred.

CONFERENCE OF VICE-CHANCELLORS AND STATE EDUCATION MINISTERS

*2054. **Dr. Ram Subhag Singh:** (a) Will the Minister of **Education** be pleased to state whether the Vice-Chancellors of all the Universities of India were invited to the conference of Vice-Chancellors and State Education Ministers recently held in New Delhi?

(b) If not, who represented Delhi University in that conference?

The Deputy Minister of Natural Resources and Scientic Research (Shri K. D. Malaviya): (a) and (b). All the Vice-Chancellors were invited; as, however, no one was holding the Vice-Chancellorship at the Delhi University, that University was not represented at the conference.

Dr. Ram Subhag Singh: Since how long was no body holding the Vice-Chancellorship of the Delhi University, and what was the reason?

منسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹفک ریسرچ (مولانا آزاد): کوشش کر رہے ہیں کہ وہ جلد چارج لیں

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): He hopes to take charge very shortly.]

डा० राम सुभग सिंह : कितने दिनों से वाइस चान्सलर के पद पर दिल्ली यूनीवर्सिटी में कोई नहीं था और उस के न होने का कारण क्या था ? क्यों नहीं था ?

مولانا آزاد : میں سمجھتا ہوں شاید سات آٹھ مہینے کی مدت گزری ہے کارن اس کا یہ تھا کہ جو وائس چانسلر نے استیعفا دے دیا تھا نئے وائس چانسلر کے معاملہ میں کچھ دنوں تک یونیورسٹی نے دیر کی - پھر جب کمیٹی بنی تو کمیٹی کے کام میں دیر ہوئی - اب نئے وائس چانسلر مقرر ہو چکے ہیں اور امید ہے کہ وہ جلد چارج لے لینگے -

[Maulana Azad: I believe the post has remained vacant for seven or eight months, the reason being that after the resignation of the Vice-Chancellor, the University took some time to consider the matter of the new Vice-Chancellor and the Committee set up for the purpose also delayed the matter for some time. Now a new Vice-Chancellor has been appointed and it is hoped he would soon assume charge.]

अंडमान को बसाना

*२०५५. डा० राम सुभग सिंह : क्या गृह-कार्य मंत्री यह बतलाने की कृपा करेंगे :

(क) क्या भारत सरकार ने अंडमान और नीकोबार द्वीपों में अपनी बसाने की योजना में कोई परिवर्तन किया है; और

(ख) यदि हां, तो यह परिवर्तित योजना क्या है और इस नई योजना के अनुसार आगामी पांच वर्षों में वहां कितने परिवार बसाये जायेंगे ?

The Deputy Minister of Home Affairs (Shri Datar): (a) No.

(b) Does not arise. I have to inform the hon. Memeber that possibly he is under a misapprehension regarding the policy of the Government. What the Government has decided in this connection is that the scheme of colonisation to be drawn up would not be confined to the settlement of refugees, but would cover the general question of colonisation. Preference,

however, would be given in this general scheme of colonisation to the settlement of refugees. Accordingly, we are giving preference this year exclusively to the refugees from Eastern Pakistan. From next year, about 75 per cent. of the colonisation would be reserved for Eastern Pakistan refugees and the rest for members from other parts of India.

Shri Thanu Pillai: May I know whether refugees from places other than Pakistan would be given preference?

Shri Datar: It may not be only refugees but members or citizens of other parts would be given preference. For example, we have received applications from Travancore-Cochin, Gujarat and some other parts. Now, their cases would be considered so far as the principal colonisation scheme is concerned from next year. Now, incidentally, we are also considering as to whether it is possible to settle some families from Travancore-Cochin in the North Andamans where some partly cleared land is available.

Shri Thanu Pillai: My question was about possible refugees coming from overseas, say from Ceylon and other places, not from other States?

Shri Datar: Their cases also will be taken into account.

Shri Thanu Pillai: What about other refugees?

Shri Datar: So far as the refugees *inter se* are concerned, now we are giving priority to refugees from Eastern Pakistan. After that, we shall consider the case of refugees from other parts of India.

Mr. Deputy-Speaker: The hon. Minister must look at the Chair. Otherwise, it is not audible all round.

Shri Thanu Pillai: My question was whether.....

Mr. Deputy-Speaker: How long will the hon. member interpret his own question?

Shri Thanu Pillai: No answer was forthcoming Sir.

Mr. Deputy-Speaker: Therefore, let him put it clearly.

Shri Thanu Pillai: I want to know whether people coming from Ceylon will be given equal treatment in respect of rehabilitation and settlement in the Andaman islands along with the East Pakistan refugees.

Mr. Deputy-Speaker: He said preference would be given to Pakistan refugees.

Shri Datar: So far as citizens or persons from Ceylon are concerned, that question has not been considered at all. Perhaps in the 25 per cent. they might be included.

सरदार ए० एस० सहगल : क्या मंत्री महोदय यह बताने की कृपा करेंगे कि जनरल कालोनाइजेशन की जो स्कीम है वह कितने वर्ष में पूर्ण हो जायेगी ?

Shri Datar: This scheme would be completed in 5 years at a cost of about 4 crores.

Dr. Ram Subhag Singh: May I know, Sir, the approximate area of land which is proposed to be reclaimed during these five years?

Shri Datar: In all 20,000 acres.

Dr. Ram Subhag Singh: How many people would be settled there?

Shri Datar: Four thousand families would be settled there.

Shri Dabhi: Am I to understand that the 25 per cent. referred to by the hon. Minister would be non-refugees?

Shri Datar: They would be from other parts of India.

Shri Dabhi: Would they be non-refugees?

Shri Datar: There would also be non-rufugees?

Shri Altekar: May I know, Sir, whether the development of the resources of Andaman and Nicobar islands is part of the scheme?

Shri Datar: Yes, it is part of the scheme.

LOTTERIES

***2056. Shri Madiah Gowda:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether permission was given to any State Governments to organise lotteries in the year 1951-52;

(b) if so, in which States and for what purposes lotteries were organised; and

(c) whether Government have any definite policy in permitting lotteries to be organised by the State Governments or by the general public?

The Deputy Minister of Home Affairs (Shri Datar): (a) No.

(b) Does not arise.

(c) The policy of the Government of India has all along been to oppose the holding, authorisation or official support of lotteries in any form, for any purpose however laudable, on the ground that they encourage a gambling spirit and may thus prove harmful. Licensing of private lotteries is within the jurisdiction of State Governments.

Shri Madiah Gowda: May I know, Sir, whether the Government are aware that a huge amount of money is flowing out of India to the Derby Sweepstake every year?

Shri Datar: Government are aware that some money is going out. Government are already taking steps for importing the receipt of tickets from Burma and Portuguese India.

Shri Madiah Gowda: May I know, Sir, whether Government have any idea of the amount of money that has now gone out of India on this account?

Shri Datar: I have not got the figures here, Sir.

Shri Dabhi: Is it a fact that some State Governments encourage lotteries which are a sort of gambling?

Shri Datar: No, Sir. State Governments have not encouraged lotteries at all. In fact only on two occasions they wanted to sanction certain lotteries, but the Government of India have turned down the proposal.

Shri Nanadas: May I know, Sir, whether the State Governments are collecting any tax on these lotteries?

Shri Datar: I am not aware:

Shri Veeraswamy: Is there any proposal under the consideration of the Government to stop such lotteries?

Shri Datar: That is the policy of the Government of India all along.

AID TO PRIMARY SCHOOLS IN TRIPURA

***2057. Shri Biren Dutt**: Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that several primary schools started and maintained by tribal people in Tripura are not receiving any aid from Government and some of them are closing down due to financial difficulties; and

(b) whether there is any proposal to give financial aid to these schools out of the Tribal Welfare Fund?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) and (b). Government are not aware of this position. But steps are being taken to ascertain how many such schools exist and are eligible for grant-in-aid.

Mr. Deputy-Speaker: Question No. 2058. Mr. Kamal Singh.

Dr. Amin. Hereafter this rule must be followed. When two hon. Members table a question, they must talk to each other and if one is not here, let him not put me to the necessity of calling one after the other. The other hon: member must rise in his seat and put that question. If he does not I will pass over to the next question.

TRAVELLING ALLOWANCE RULES

***2058. Dr. Amin**: Will the Minister of **Finance** be pleased to state:

(a) whether recent changes in classes of railway travel would affect the existing rules of T.A. for different grades of Government officers; and

(b) whether Government propose to place on the Table of the House, a copy of the new T.A. Rules?

The Deputy Minister of Finance (Shri M. C. Shah): (a) Yes.

(b) A copy of the interim instructions issued by Government on the subject is placed on the Table of the House. [*See* Appendix XI, annexure No. 53.]

Dr. Amin: May I know, Sir, how much saving will be effected by the proposed T.A. rules.

Shri M. C. Shah: We have not got that data here.

Shri Dabhi: How will the changes in classes of railway travel affect the existing rules of T.A. of M. Ps.?

Shri M. C. Shah: The Parliament Secretariat knows.

Shri K. G. Deshmukh: Will those who are entitled to first-class be given second-class after the abolition of first-class?

Shri M. C. Shah: The highest class in the train if the first-class is not provided for.

RESEARCH TRAINING SCHOLARSHIPS

***2059. Shri Madiah Gowda:** Will the Minister of **Education** be pleased to state:

(a) how many research training scholarships were allotted to the students of (i) Mysore University and (ii) Osmania University for the years 1951-52 and 1952-53; and

(b) the total amount expended for the purpose in those years?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) The following scholarships were allotted:—

(i) *Mysore University*:

	Senior	Junior
1951-52	3	1
1952-53	6	—

(ii) *Osmania University*:

1951-52	—	—
1952-53	5	5

(b) A sum of Rs. 7,556-11-0 has been spent by Mysore University and no amount has been expended by Osmania University.

Shri Nanadas: May I know, Sir, the subjects on which these research scholarships are allotted.

Shri K. D. Malaviya: Various scientific subjects. The object is to enable deserving students to pursue research in scientific subjects.

Shri Nanadas: What are those subjects?

Mr. Deputy-Speaker: How can a list of subjects be given?

Prof. D. C. Sharma: May I know, Sir, if similar scholarships have been allowed to other Universities also or only two Universities have been singled out for the purpose?

Shri K. D. Malaviya: The total number of scholarships allotted on the quota system is 306 for senior and perhaps 238 for junior.

श्री रघुनाथ सिंह : इस में हिंदु युनिवर्सिटी के वास्ते क्या एलाटमेंट हुआ है ?

श्री के० डी० मालवीय : सब का कोटा इस में है । मैं इस समय बनारस युनिवर्सिटी का कोटा आप को नहीं बता सकता ।

Prof. D. C. Sharma: What is the quota of Punjab University?

Shri K. D. Malaviya: As I said, Sir, the quota has been allotted for all Universities. But I have not got the break-up of 306 and 238 which I just mentioned.

Prof. D. C. Sharma: Will the hon. member be pleased to place it on the Table of the House?

Shri K. D. Malaviya: Yes.

Mr. Deputy-Speaker: The hon. member can put down a question. I am not going to allow such questions hereafter. When one hon. member who is interested in Mysore University puts down a question, it is not opening the entire vista and every hon. member asking about his own State. If he is interested, let him put a question.

Sardar A. S. Saigal: Quite right, Sir.

श्री आर० एन० सिंह : क्या मैं जान सकता हूं कि किस युनिवर्सिटी का कोटा सब से अधिक है ?

Mr. Deputy-Speaker: Between Mysore and Hyderabad? I won't allow that question.

ACADEMY OF KARNATAK MUSIC

***2060. Shri Madiah Gowda:** Will the Minister of **Education** be pleased to state:

(a) what difficulties are felt in the formation of the Academy of Karnatak music; and

(b) when it is likely to be formed?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) (i) Out of the proposed participating States, Travancore-Cochin does not want to participate on the ground of already maintaing a full-fledged Music College.

(ii) Differences exist between the Government of India and the State Governments of Madras, Hyderabad

and Mysore in regard to the allocation of proportions of expenditure on the proposed Academy.

(b) The proposal has been dropped for the time being.

INDIAN INSTITUTE OF SCIENCE, BANGALORE

*2061. **Shri S. C. Samanta:** Will the Minister of **Education** be pleased to state when the Aeronautical Engineering Department is going to be completed in the Indian Institute of Science, Bangalore?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): The Development Programme for the Department approved by Government in 1951 is expected to be completed by April, 1954.

श्री एस० सी० सामन्त: क्या मैं माननीय मंत्री जी से जान सकता हूं कि भारत में किसी दूसरी जगह भी ऐसी एअरोनाटिकल इंजीनियरिंग सिखाई जाती है या नहीं, और अगर सिखाई जाती है तो किस जगह पर और किस इंस्टीट्यूशन में ?

श्री के० डी० मालवीय: जहां तक मुझे मालम है ऐसा समुचित प्रबन्ध भारतवर्ष के किसी और केन्द्र में नहीं है ।

श्री एस० सी० सामन्त: क्या मैं जान सकता हूं कि इस इंस्टीट्यूशन में पोस्ट ग्रेजुएट और ओवरसीज ट्रेनिंग भी दी जायगी ?

श्री के० डी० मालवीय: जी हां । पर ओवरसीज ट्रेनिंग से वहां की शिक्षा का क्या संबंध ।

EDUCATIONAL STANDARD FOR APPOINTMENT TO GOVERNMENT SERVICE

*2062. **Shri Muniswamy:** (a) Will the Minister of **Education** be pleased to state whether it is a fact that the Union Government are considering a proposal to do away with insistence on degrees for employment to Government Services?

(b) If so, what would be the means by which selection to appointments will be made?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) and (b). Yes, Sir. The whole matter is under consideration.

Shri Muniswamy: May I know, Sir, when this consideration will be finalised?

Shri K. D. Malaviya: As soon as possible.

Shri Muniswamy: When will it be possible, Sir?

Shri K. D. Malaviya: The various State Governments are being consulted. The matter is not quite simple and it will take sometime. As I said, Government will take decision as soon as possible.

WRITTEN ANSWERS TO QUESTIONS

LOAN FROM THE NIZAM

*2038. **Shri Sivamurthi Swami:** Will the Minister of **States** be pleased to state:

(a) whether the Hyderabad State Government have consulted the Ministry of States while taking a loan from the Nizam of Hyderabad for development or any other purpose;

(b) if so, how much and for what purposes; and

(c) if not, are Government aware of the total loans taken by the State Government from various sources?

The Minister of Home Affairs and States (Dr. Katju): (a) Yes.

(b) I. G. Rs. 12·22 crores for meeting the financial requirements of the State.

(c) Does not arise.

DELIMITATION COMMISSION

*2043. **Shri Bheekha Bhai:** (a) Will the Minister of **Law** be pleased to state whether the decisions of the Delimitation Commission in respect of the delimitation and reservation of the seats will be subject to any subsequent alterations?

(b) What will be the effect of any subsequent inclusion in or exclusion from, the list of the Scheduled Tribes and Scheduled Castes on the present reserved seats?

(c) How and in what manner will the recommendations of the Backward Classes Commission subsequently affect the determined strength of reserved seats by the Delimitation Commission?

The Minister of Law and Minority Affairs (Shri Biswas): (a) Except as regards minor amendments referred to in section 10 of the Delimitation Commission Act, 1952, final orders of the Delimitation Commission are not subject to any modification.

(b) and (c). Under the Constitution the Delimitation Commission has to adjust the constituencies on the basis of the population as ascertained at the last preceding census. Accordingly, in making this delimitation, the Commission will have to reserve seats for the Scheduled Castes and the Scheduled Tribes on the basis of the population of these Castes and Tribes as ascertained at the 1951 census. Any amendment made in the list of Scheduled Castes or the Scheduled Tribes and any consequent variation in their population will not affect the delimitations already made.

Amarnath Ordnance Factory

***2048. Shri K. P. Sinha:** Will the Minister of **Defence** be pleased to state:

(a) whether Amarnath Ordnance Factory has come into operation and if so, since when;

(b) the number of foreign experts working in the factory and with what emoluments; and

(c) when the factory is expected to be fully manned by Indians?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Presumably the Hon'ble Member refers to Machine Tool Prototype Factory, Ambarnath. This factory was opened by the Prime Minister on the 13th January 1953.

(b) 29.

The pay of these technicians ranges from 900 Swiss Francs per month to 1850 Swiss Francs per month in addition to overseas allowance of 450 Swiss Francs per month. One officer is paid 2200 Swiss Francs plus 550 Swiss Francs overseas allowance.

(c) In about 3 to 5 years.

Grants to Societies and Bodies for Educational and Medical Purposes

***2063. Shri Badshah Gupta:** Will the Minister of **Education** be pleased to state the amount of money granted by Government during 1952-53 to different societies and bodies, whether Indian or Foreign working in India for educational and medical purposes?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Information regarding educational societies and bodies is being collected and will be laid on the Table of the House. Regarding medical organisations the question may be addressed to the Minister for Health.

विन्ध्य प्रदेश की सशस्त्र सेनायें

***२०६५. श्री रणवीर सिंह :** क्या रक्षा मंत्री यह बतलाने की कृपा करेंगे :

(क) विलीनीकरण से पहले विन्ध्य प्रदेश की विभिन्न रियासतों की सैन्य शक्ति कितनी थी और उसका स्वरूप क्या था ;

(ख) इन सेनाओं के किन भागों को केन्द्रीय सरकार की सेनाओं में मिला लिया गया है ;

(ग) क्या सरकार को केन्द्रीय सरकार की सेनाओं में न मिलाई गई सेनाओं के किन्हीं सदस्यों से ऐसी कोई शिकायतें भी मिली हैं कि उन्हें जो सुविधायें मिलनी चाहियें थीं वे नहीं मिलीं ; और

(घ) यदि हां, तो सरकार ने इन शिकायतों के सम्बन्ध में क्या कार्यवाही की है ?

The Deputy Minister of Defence (Shri Satish Chandra): (a) The strength of the Indian State Force units of the various States of Vindhya Pradesh before integration was:—

(i) *Rewa*:

Venkat Battalion	554
Infantry Training Centre	48
Military Hospital	17
W/T Section	15

(ii) *Panna*:

Chattarsal Infantry	147
(iii) *Datia*:	
1st Govind Infantry	155
Total	936

In addition, there were the following 'non-ISF' units in existence, which also had a number of ISF personnel on their strength.

HQ Vindhya Pradesh State Forces
Supply Depot
M.T. and Animal Transport
Bands.

(b) No part of these forces was incorporated in the regular army.

(c) Yes;

(d) Anticipatory pensions have been granted in all outstanding cases except in two cases which are expected to be finalized shortly. Final settlement is also being expedited.

NEW MINT, ALIPORE

*2066. **Shri Telkikar:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the new Mint, Alipore, is producing only nickel coins from nickel pellets at present; and

(b) whether the Mint is capable of processing other metals also, in addition to nickel?

The Deputy Minister of Finance (Shri A. C. Guha): (a) At present no nickel coins are being minted in the new Mint. It is producing bronze single pice only.

(b) Yes, Sir, here is large capacity to process bronze, aluminium and cupro-nickel coins in addition to nickel, and to manufacture medals, tokens and badges.

SALARIES OF HEADS OF DEPARTMENTS OF ENGLISH AND SANSKRIT

*2067. **Shri Badshah Gupta:** Will the Minister of **Education** be pleased to state the respective salaries drawn in January, 1953, by the Heads of the Departments of English and Sanskrit respectively in the following educational institutions:

(i) the Banaras Hindu University; and

(ii) the Aligarh University?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Information is being collected and will be placed on the Table of the House.

YOUTH WELFARE AND PHYSICAL EDUCATION

*2068. **Shri T. S. A. Chettiar:** Will the Minister of **Education** be pleased to state:

(a) the purposes for which the provision made for youth welfare and physical education is spent;

(b) how much has been spent in 1952-53 and on what items; and

(c) whether Government will place on the Table of the House the recommendations of the Youth Welfare Seminar held at Simla in 1951 and also any model schemes Government may have prepared in this behalf?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) The provision made is for encouraging various sports Organizations of All India character for participating in International Sports meets, and to encourage research in Physical Education and to promote Youth Welfare activities in the country.

(b) and (c). A statement is placed on the Table of the House. [*Placed in Library—See No. S-77/53.*]

PREVENTION OF CORRUPTION ACT

*2069. **Pandit D. N. Tiwary:** Will the Minister for **Home Affairs** be pleased to state the number (State-wise) of prosecutions made under the Prevention of Corruption (Amendment) Act, 1952 since it came into force up to date?

The Deputy Minister of Home Affairs (Shri Datar): The number of prosecutions (state-wise), since 12th August 1952 when the Prevention of Corruption (Amendment) Act, 1952 came into force upto 31st March 1953, is as follows:—

West Bengal	...	2
Delhi	...	3
Punjab	...	1
Total	...	6

पप्सू के न्यायालयों में विचाराधीन मामले

*२०७१. डा० सत्यवादी : क्या राज्य मंत्री यह बतलाने की कृपा करेंगे :

(क) पैप्सू के न्यायालयों में कितने मामले गत दस से बीस वर्ष तक से विचाराधीन हैं ; और

(ख) सरकार इस विषय म क्या कार्यवाही कर रही है ?

The Minister of Home Affairs and States (Dr. Katju): (a) None.

(b) Does not arise.

Scholarship Board for 1953-54

*2072. **Shri Nanadas:** Will the Minister of **Education** be pleased to refer to the answer given to Starred Question No. 1150 asked on the 25th June, 1952 and state:

(a) whether the Scholarship Board for the Scheduled Castes, Scheduled Tribes and Other Backward Classes students has been constituted for the year 1953-54;

(b) if so, who the Members of the Board are;

(c) if not, when the Board will be constituted:

(d) whether any election will be conducted for the purpose; and

(e) what decision has been taken about constituting the Board only of the Members of the Parliament as recommended by the Board last year?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) A statement is laid on the Table of the House. [*See* Appendix XI, annexure No. 54]

(c) and (d). Does not arise.

(e) The recommendation of the Scholarships Board made at its meeting held on 13.5.52 was that the Board for the year 1953-54 should be entirely Parliamentary and Official. This recommendation has been accepted with the modification that a Vice-Chancellor of a University in India has also been appointed.

Enquiry Committee to examine Working of Industrial Finance Corporation

*2073. **Shri K. C. Sodhia:** (a) Will the Minister of **Finance** be pleased to state whether the Enquiry Committee appointed to examine and report on the working of the Industrial Finance Corporation submitted its report?

(b) What was the time given to them for submission of their report and what are the causes of delay, if any?

(c) Will the report or its summary be published?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Yes, Sir, on the 7th May, 1953.

(b) Originally, it was expected that the Committee would be able to submit its report within two months but this time-schedule could not be adhered to for the following reasons:—

(i) the date for submission of views by the Public and the various Chambers and Associations of Commerce and Industries to the Committee was extended on popular request from the 15th February, 1953, to the 29th February, 1953,

(ii) evidence of some witnesses had to be taken at Calcutta, and

(iii) detailed scrutiny of each loan transaction had to be carried out with reference to the case files maintained at the Corporation's head office.

(c) The report is at present under examination of Government. The precise manner in which the Report or a summary should be published is also under consideration.

Charges of Corruption against former Secretary, Commerce and Industry Ministry

*2075. **Shri Rajagopala Rao:** (a) Will the Minister of **Home Affairs** be pleased to state whether Government have received the findings of Sir Arthur Trevors Harris who enquired into charges of corruption and professional misconduct against the former Secretary of the Commerce and Industry Ministry?

(b) If so, how long will Government take to consider the findings and take action on them and when will they be made public?

(c) If not, when are the findings expected to reach Government?

The Deputy Minister of Home Affairs (Shri Datar): (a) Yes.

(b) The report of Sir Trevor Harris is under active consideration and Government will soon decide as to what further steps should be taken to complete the enquiry in all its stages and reach final decisions (against the officer concerned).

(c) Does not arise.

ASSETS AND LIABILITIES OF HYDERABAD STATE BANK

***2076. Shri H. G. Vaishnav:** Will the Minister of **Finance** be pleased to state:

(a) the assets and liabilities of Hyderabad State Bank on 31st March, 1953, when the Reserve Bank of India took charge of State Finances, after demonetisation of Hyderabad coins and currency;

(b) what are the functions now of Hyderabad State Bank, which was operating the State finances previous to the demonetisation; and

(c) what are the main conditions of working agreement, if any, between the Reserve Bank of India and Hyderabad **State Bank?**

The Deputy Minister of Finance (Shri A. C. Guha): (a) On the 31st March, 1953, the assets and liabilities amounted to Rs. 18·53 crores each.

(b) With the appointment of the Reserve Bank as bankers to the Government of Hyderabad with effect from the 1st April, 1953, the Hyderabad State Bank ceased to be the bankers of the State Government but are now the sole agent of the Reserve Bank in the Hyderabad State for the conduct of Government business. There has been no other change in the functions of the Bank.

(c) A copy of the agreement between the Reserve Bank of India and the Hyderabad State Bank was placed on the table of the House on the 21st April, 1953.

CENTRAL POLICE OFFICIALS IN HYDERABAD SERVICE

***2077. Shri H. G. Vaishnav:** Will the Minister of **States** be pleased to state the number of police officials of gazetted rank still in service of Hyderabad State Police, sent on deputation from outside by the Central Government?

The Minister of Home Affairs and States (Dr. Katju): 14.

SITUATION IN KARNATAKA

***2078. Shri Sivamurthi Swami:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government are aware of the mass movements and the deteriorating law and order situation in Karnataka following the demand for a United Karnataka; and

(b) how many representations and resolutions passed by villagers, local bodies, various organisations and individuals, have been received so far and what action Government propose to take in the matter?

The Deputy Minister of Home Affairs (Shri Datar): (a) Government are aware that there is agitation over the issue.

(b) Government have received a number of representations on the subject. I would invite attention to the recent speech made by the Prime Minister at Belgaum which has been fully reported in the Press. I have nothing to add to it.

GRANTS-IN-AID TO STATES

***2079. Shri Bheekha Bhai:** Will the Minister of **Home Affairs** be pleased to refer to the starred question No. 1714 asked on the 29th April, 1953 and state:

(a) whether it is a fact that the States of Bombay and Madhya Pradesh have not been able to spend the full amount allotted to them as grants-in-aid during the year 1952-53; and

(b) if so, what amount remained unspent?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The Government of Bombay have spent the full grant of Rs. 8·50 lakhs. In Madhya Pradesh a saving of Rs. 1,36,000/- is expected out of the grant of Rs. 17 lakhs.

SOMNATH TEMPLE

*2080. **Shri Badshah Gupta:** Will the Minister of **Education** be pleased to state the amount of money spent so far on the repairs of the Somnath Temple?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): The Government of India have incurred no expenditure on the repairs to the Somnath Temple.

AMELIORATION OF FORMER CRIMINAL TRIBES

*2081. **Shri Muniswamy:** (a) Will the Minister of **Home Affairs** be pleased to state the steps taken by the Central Government for the amelioration of the condition of the former criminal tribes?

(b) Is it a fact that a conference of representatives was held recently regarding this question?

(c) How is the grant of 30 lakhs of rupees for 1953-54 going to be spent?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). A statement is laid on the Table of the House. [*See* Appendix XI, annexure No. 55.]

GRANT TO CALCUTTA UNIVERSITY

*2082. **Shri K. K. Basu:** Will the Minister of **Education** be pleased to state:

(a) whether Government have withdrawn or reduced the capital grant made to the Calcutta University; and

(b) if so, the reason therefor?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). No.

HISTORY OF FREEDOM STRUGGLE IN INDIA

*2083. **Shri Krishnacharya Joshi:** (a) Will the Minister of **Education** be pleased to state whether any meeting of the Committee appointed to write the History of Freedom Struggle in India was held recently?

(b) If so, what are the preliminary decisions arrived at?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) It was agreed that the History should be viewed as one integral movement and that in addition to the collection and sifting of material, action should be taken to prepare in 1953-54 a draft of the introductory portion tracing the background of the movement.

MESSRS. HOPKINS AND WILLIAMS

1410. **Shri Matthen:** (a) Will the Minister of **Natural Resources and Scientific Research** be pleased to state what is the paid-up capital, Reserve fund, paid-up per share and the dividend paid during the last two years of Messrs. Hopkin and Williams?

(b) Will Government place on the Table of the House a copy of their latest balance sheet?

(c) What are the present status and function of the Company in relation to the mineral industry of Travancore-Cochin?

(d) Is the Company in possession of any licence from Government for dealing in the said mineral sands?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) to (d). The information required has been called for from the Government of Travancore-Cochin and will be laid on the Table of the House as soon as it is received.

Ex-SERVICEMEN'S POST-WAR RECONSTRUCTION FUND

1411. **Shri Bhakta Darshan:** (a) Will the Minister of **Defence** be pleased to refer to the reply given to Unstarred Question No. 180 asked on the 20th November, 1952 and state whether any further amount of money has been spent by the Government of Uttar Pradesh out of the *Ex*-servicemen's Post-war Reconstruction Fund up to the 31st of March, 1953?

(b) If so, what are the details of that expenditure?

(c) What was the unspent balance on that date under the Fund?

The Deputy Minister of Defence (Shri Satish Chandra): (a) to (c). The information is being collected and will be placed on the Table of the House.

DISTRIBUTION OF RADIO SETS TO LIBRARIES

1412. Shri Jhulan Sinha: Will the Minister of **Education** be pleased to state:

(a) whether there is any Scheme by which Government distributes radio receiving sets through State Governments to deserving libraries and other public organisations as part of their educational development scheme; and

(b) if so, how many sets have been distributed so far?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). No.

CAPITAL ISSUE ORDER

1413. Shri K. K. Basu: Will the Minister of **Finance** be pleased to state:

(a) total amount of capital sanctioned under Capital Issue Order every year since 1948;

(b) the amount sanctioned industry-wise; and

(c) the proportion of foreign capital?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Amounts sanctioned are as under:—

	(Rs. crores)
1948	125.7
1949	63.0
1950	74.8
1951	59.6
1952	39.3
Total	362.9

(b) and (c). Particulars are given below:—

Serial No.	Industry	(b) Total amount of capital sanctioned	(c) Proportion of foreign capital out of the Amount of capital sanctioned
1	2	3	4
		(Amount in lakhs of Rupees.)	
1	Mining and quarrying	812·52	287·60
2	Iron and steel making	1181·25	41·54
3	Non-ferrous metals	309·00	1·50
4	Electrical industries (including radio manufeture)	527·10	229·41
5	Shipbuilding and repairs	519·53	..
6	Chemicals heavy and fine	1514·04	222·03
7	Drugs and medicines	82·25	
8	Paints and dyes	213·79	52·40
9	Tiles, bricks and other construction material	100·97	34·20
10	Glass manufacture	152·00	54·10
11	Cotton spg. and wvg.	4721·96	51·02
12	Jute spg. and wvg.	837·80	21·05
13	Woollen and worsted mills	517·07	9·20
14	Paper and straw board manufacture	816·76	23·82
15	Generation and supply of electricity	2043·87	362·35
16	Sugar manufeture	1313·26	0·08
17	Re-rolling mills	330·00	..
18	Engineering general	1776·43	127·85
19	Automobile manufacture	398·50	13·47
20	Aircraft manufacture	212·75	..
21	Oil mills	99·95	..

1	2	3	4
22	Cement manufacture	1245·50	25·00
23	Silk factories	622·19	..
24	Plastics	55·40	..
25	Rice and flour mills	65·32	..
26	Food preservation and dehydration	76·50	..
27	Cycle manufacture	245·62	38·60
28	Vegetable fats	183·90	35·50
29	Soap manufacture	202·00	112·00
30	Construction companies and house building societies	1209·70	49·51
31	Printing and finishing factories	40·00	..
32	Jute presses	33·40	..
33	Ice and aerated water	89·21	..
34	Tobacco manufacture	157·50	32·78
35	Film production	261·00	12·00
36	Match manufacture	72·00	60·00
37	Rubber manufacture	840·48	145·18
38	Breweries and distilleries	32·87	13·20
39	Cotton ginning and pressing factories	70·00	..
40	Salt manufacture	43·50	..
41	Manufacture of locomotive boilers etc.,	150·00	..
42	Manufacture of sewing thread	295·00	295·00
43	Manufacture of typewriters	200·00	200·00
44	Petroleum refinery operation of	225·00	225·00
45	Manufacture of aluminium utensils	128·00	..
46	Other industries	622·54	364·83
47	Plantation tea and coffee etc.,	343·99	36·35
48	Agricultural and land improvement	209·43	..
49	Hotels and clubs	573·50	12·75
50	Advertising and publicity	200·59	8·82
51	Dairies and fisheries	49·83	..
52	Trading concerns	2057·02	534·80
53	Shipping companies	2577·00	100·00
54	Aerial navigation	470·00	..
55	Other transport companies	80·37	..
56	Banks	865·44	..
57	Investment trusts	435·15	..
58	Insurance companies	294·73	..
59	Indegenous credit agencies (Nidhis, loan offices etc.)	2·55	..
60	Managing agencies	1565·07	292 98
61	Other services	915·80	42·52
	TOTAL	36287·90	4160·04

Par. S.16.V.1.53
962

Volume V

No 1. — 4

Tuesday

12th May, 1953

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part II—Proceedings other than Questions and Answers)

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THE

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Tuesday, 12th May 1953

The House met at a Quarter Past Eight of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

9-15 A.M.

PAPERS LAID ON THE TABLE

APPROPRIATION ACCOUNTS ETC. OF THE DEFENCE SERVICES,

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the Table a copy of each of the following papers under article 151(1) of the Constitution:

(i) Appropriation Accounts of the Defence Services for the year 1950-51. [*Placed in Library See* No. IV.O.1(94).]

(ii) Commercial Appendix to the Appropriation Accounts of the Defence Services for the year 1950-51 and the Audit Report thereon. [*Placed in Library. See* No. IV.O.1(96).]

(iii) Audit Report, Defence Services, 1952. [*Placed in Library. See* No. IV.O.1(95).]

REPORT OF A SURVEY ON PUBLIC ADMINISTRATION IN INDIA

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the Table a copy of the Report of a Survey on Public Administration in India by Shri Paul H. Appleby. [*Placed in Library. See* No. IV.A.O.(134).]

MOTION *Re* ASSOCIATION OF MEMBERS OF COUNCIL OF STATES WITH PUBLIC ACCOUNTS COMMITTEE

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move:

> "That this House recommends to the Council of States that they do agree to nominate seven members from the Council to associate with the Public Accounts Committee of this House for the year 1953-54 and to communicate to this House the names of the members so nominated by the Council."

Mr. Deputy-Speaker: Motion moved:

> "That this House recommends to the Council of States that they do agree to nominate seven members from the Council to associate with the Public Accounts Committee of this House for the year 1953-54 and to communicate to this House the names of the members so nominated by the Council."

Dr. Lanka Sundaram (Visakhapatnam): May I make a submission? May I know from you, Sir, whether it is a fact that the Public Accounts Committee and the Rules Committee have unanimously recorded their opinion that this association should not be permitted, and the Chairman of the Public Accounts Committee wrote a letter to the Chairman of the other House that it would not be possible.

Mr. Deputy-Speaker: How is that relevant for the purpose here?

Shri Jawaharlal Nehru: May I answer it, Sir? It is a fact and that was considered in all its legal aspects by the highest legal authorities and the Speaker was also consulted. The Public Accounts Committee members were completely in the wrong.

Shri N. C. Chatterjee (Hooghly): This raises a matter of great importance. I had the opportunity of being a member of the Rules Committee and you now, Sir,—you were presiding over that Committee,—it is a matter which raises issues of fundamental importance in regard to money Bills and certain other matters over which this House has got the sole authority, and it would not be at all right and proper to allow the other House to participate in the discussions of the Committee which we appoint. It is a matter which will lead to considerable complications and may lead to undesirable clashes between the two Houses which we want to avoid. After a good deal of deliberation, after dispassionately considering the matter and discussing the pros and cons, we unanimously recommended that this should not be allowed. It may be that if we allow it there may be occasions when all the nominees of the Council may swamp the Committee and thereby it will really be the wishes of the people who are not responsible to the electorate which will determine the financial commitments of this country. Really we cannot share this responsibility with the Members of the other House. The whole Constitution is based on the fundamental principle that there shall be no taxation without representation. We are responsible to the electorate; we have been returned by their vote and suffrage and it is our business to determine what shall be the expenses, and to control the same. It would not be right to allow this motion. I am not making any reflection on the Members of the other House; it is not their business, it is not their prerogative, it is not their function and they should not share in the deliberations of this Committee and because it raises such important points, I would request that if the Prime Minister is determined to press it, there should be a special debate where members can come thoroughly prepared and this thing should be thrashed out fully without feeling and without rancour. Especially having regard to the unfortunate incident that we have had with the other House, I would not like to say anything which would widen the cleavage between these two Houses....

Mr. Deputy-Speaker: That chapter is closed. That need not be referred to now.

Shri N. C. Chatterjee: I would not refer to it. But that makes us more cautious and more circumspect. So we all agreed that our prerogatives, our exclusive functions should not be trespassed upon by anybody. We are responsible to the electorate. If we determine that so much money should be spent and so much money should not be given, how is it that Members of the other House who have nothing to do with it, who are not constitutionally responsible at all should have a voice in it? Why should our report be qualified or rendered nugatory and what would be the position? We are determining as the Public Accounts Committee elected by this House, responsible to the tax-payers, responsible to the people who have got to share the burden; we decide something and it may be that our decision, to some extent, if it is not superseded, may be modified by the votes of the people who are not at all responsible to those tax-payers and to the electorate. It is not fair, Sir, I submit to the members of the Rules Committee. Does the Prime Minister think that the Rules Committee or the Public Accounts Committee is not a responsible body? Sir, you know, apart from the members of the Rules Committee, you also associated representatives of different groups and parties; they also attended the Rules Committee discussions and discussed it for more than one day but after fully considering the matter we came to the conclusion, that this should not be allowed. The matter is very serious,—when the members of the Public Accounts Committee, the members of the Rules Committee and the representatives of the groups and parties were unanimous in their decision,—it should not be lightly dealt with. It should be the subject of a special debate and I think a special day should be allotted for the purpose of discussing this matter, with a full sense of responsibility I say, Sir, it should not be dealt with in a light-hearted manner.

Shri H. N. Mukerjee (Calcutta North-East): As far as we are concerned, we are, for a change, in agreement with the motion made by the Prime Minister. We have our reasons for doing so but I do not think it is necessary for me to go into these reasons at the present moment. But, since there appears to be a desire in certain sections of the House to have some little discussion on this point before they can come to a decision, might I suggest that perhaps an hour may be set apart tomorrow when this matter might be discussed.

Several Hon. Members: No, no, an hour is not enough.

Shri H. N. Mukerjee: I do not know if that will be sufficient. I should think we need not waste too

much time over this matter of adding a few Members of the other House to the Public Accounts Committee, as I think the Prime Minister has made this motion after a good deal of consultation at least in his own party and I hope also with the Chairman of the other House of Parliament. So, I take it that not much time would be taken up. I do not know if other Members of the Opposition view it differently. So far as we are concerned, we are in agreement with this motion. But since there is a desire in certain sections of the Opposition that this matter should be thrashed out a little carefully than the Prime Minister's motion today suggests, perhaps we might have some little time for it.

Shrimati Sucheta Kripalani (New Delhi): I should say that I too do not oppose the motion as such. But, I think it is a very marked departure from the usual parliamentary practice and it is understood that this House has got control over these matters. Therefore, when we want to introduce this kind of departure, it would have been better if all the parties had been consulted. In England, usually the Chairman of the Public Accounts Committee is a member of the Opposition. It is conceded that the Opposition has got a part to play in matters of finance. So, I think it would have been better if we had been consulted. We do want more time to think about it and I do not think the Opposition has considered it. What is the meaning of this association; whether those Members will be full Members of the Committee and in what capacity; what will be their part? All these, I think, raise very serious issues and it would be better if this motion is brought about in such a way that we are given a chance to think about it.

Shri Jawaharlal Nehru: As a matter of fact, naturally in a matter in which the House desires to discuss further, we should try to find time for that. There is no question of coming in the way of a full discussion of any matter. But the House knows that we are hard pressed for time in the next few days and it is not quite clear to me where to find that time even an hour or two. If the House is willing to sit in the afternoon, certainly we are prepared to deal with it this afternoon or any afternoon. But, obviously there would be no particular point in this motion unless it is accepted and dealt with fairly soon. May I mention, listening to the hon. Member. Mr. Chatterjee, I felt that he was lacking in his usual clarity of thought. He referred to taxation without representation, Money Bills etc. I really did not understand who was taxing whom in this; whether the Public Accounts Committee tax the people or whether it considers Money Bills. All this reference was completely beside the point. He was speaking more like the man in the moon: it had no relevance at all.

The hon. lady opposite also said that something is being done without precedent. If I may submit with all respect this House and our Constitution are also without precedent. The two Houses started functioning after the general elections a year ago. About eight months ago this matter was considered and after taking legal advice in the matter, we (that is the Government), came to the conclusion which is embodied in this motion. It was nearly eight or nine months ago that this matter was first considered. For a variety of reasons—we were pressed for time as well—we did not bring it forward. Naturally we could not and we did not wish to take any step without the concurrence of the Speaker. The matter was first referred to the Speaker and first discussed with him. The Speaker ultimately approved of this approach of ours and, if I may say so, suggested that we might proceed in this way. We consulted not only the Ministry, but other eminent lawyers.

But the main point for the House to consider is this. This Public Accounts Committee has nothing to do with, what I might call, the financial powers of this House, which, of course are supreme in that matter. There is another Committee—the Estimates Committee. A distinction is made by us as between the Public Accounts Committee and the Estimates Committee. The Estimates Committee has something to do, perhaps, with those powers.

The Public Accounts Committee is a scrutinising Committee. It scrutinises accounts, points out the failings and errors and mistakes made and that kind of thing, which anybody can really do. There can be no doubt that it is open to the other House to appoint a Public Accounts Committee of its own to do exactly the same thing, that is to scrutinise and say what it likes and what it does not like. It would be most unfortunate, I think, if there were two Committees functioning like this for two Houses trying to rival, or out-rival each other, and summoning large number of officers of Government, to explain this or that to them. As it is, a good deal of time of officers of Government is naturally spent on this and rightly so. But to duplicate all

[Shri Jawaharlal Nehru]

that would be unfortunate from various points of view. So that one does not come in the way of Members of the other House considering these matters. Only, perhaps, it leaves them to consider them separately and in a way, perhaps, which would tend to make the two Committees try to out-do each other. It would not be a healthy rivalry.

The only thing they can do in this is, as I said, to criticise, or scrutinise things. Our own impression has been that not only is it perfectly justified, but, it is—if I may say so—desirable and wholly in the spirit of the Constitution. There is no question of the other House encroaching on any special privileges of this House in any way. The Chairman of the Committee is appointed by the Speaker. My hon. friend Mr. Chatterjee pointed out that perhaps Members of this House may not be present, and some other Members might be. Even if that remote contingency arises—and remember that there will be fifteen Members of this House on the Committee, while the other House will have only seven—all that would happen is that some point would be noted, that is all. The final report of the Committee comes out after long proceedings and the report is submitted to the House. So no vague or dangerous development can take place, even if Members are not present there, except some noting. I do submit that this is a simple proposition and important issues which are referred to do not really arise in this. When they arise certainly they should be considered fully. This is a simple matter, which is conducive to efficiency of working and prevention of waste and duplication of work, which would help, if I may say so with all respect, in certain promotion of an atmosphere of co-operative working between Members of the two Houses, and I submit that this proposition might well be accepted by this House. If, however, the House wants a little discussion on it we have no objection.

Mr. Deputy-Speaker: Hon. Members have heard the Leader of the House, and leaders of the Praja Socialist Party and the Communist Party. This subject need not take a long time, but if it is the desire of the House that it should be discussed, I have no objection.

Shri Jawaharlal Nehru: May I suggest for the consideration of the House that instead of the question hour tomorrow, we may discuss this tomorrow morning.

Opposition Members: No, no.

Shri B. S. Murthy (Eluru): The other day I raised a point as regards a Resolution which the other House has passed.

Mr. Deputy-Speaker: I am afraid we are going from one thing to another.

Shri B. S. Murthy: Please give me a minute to make out my case.

Mr. Deputy-Speaker: I will not give him even a second.

The only point for consideration now is whether we shall proceed with the discussion of this motion straightaway, or take it up tomorrow. Once a motion is made hon. Members are entitled to discuss it. Perhaps some hon. Members may feel that they received notice of this motion only yesterday and that they had not sufficient time to study it. If the Leader of the House also agrees, this may stand over till tomorrow. If the House agrees the question hour tomorrow may be given up.

Some Hon. Members: No, no.

Mr. Deputy-Speaker: But hon. Members must be prepared to do some business. The question hour is necessary; the afternoon cannot be spared. It will create an impression that we are not prepared to do some work, at some sacrifice.

Shri B. S. Murthy: We may take it in a night session.

Mr. Deputy-Speaker: Having regard to the nature of the work we may sit tomorrow afternoon. We shall meet for this purpose at four o'clock tomorrow and carry on till six o'clock. There must be an end to this. It will be taken up tomorrow.

VINDHYA PRADESH LEGISLATIVE ASSEMBLY (PREVENTION OF DISQUALIFICATION) BILL—*Contd.*

Shri U. M. Trivedi (Chittor): Yesterday in the midst of the debate the House rose and I was just discussing the question whether it would be proper for us and whether it would be dignified for us to have this piece of legislation. When the hon. Member Mr. Shah was speaking I just interrupted him to enquire whether in the illustrations which he was trying to give there was a single case when finality was reached and the House of Commons, after the finality had been reached, passed a law setting at nought that finality. The reply of Mr. Shah was that I had a very wrong conception of finality and he would

explain the point. I sat through the whole of his speech and heard every word he spoke, but I had still to find out what his explanation was about the finality.

Now, the point is this that we have to remember that we have got a certain tribunal and the Election Commission itself is the tribunal. The analogy between the Privy Council and the Election Commission is very patent to us. Those of us who know how the Privy Council works know very well that the Privy Council never pronounced judgments. The Privy Council expressed a particular opinion and it was His Majesty's pronouncement which followed the opinion expressed by the Privy Council. In this particular instance the tribunal itself was the Election Commission and our President was concerned with arriving at a decision according to the opinion expressed by the Election Commission. In other words, it was this tribunal which was there, and the final arbiter was the President—although it is very correct to say, and I should say in a blunt-language, the President was merely a stamping machine. But a stamping machine of what? Of a tribunal which has been set up by our Constitution.

Once we reach a finality by a decision of a tribunal then the point arises before us, and it is not very easy to say and it is not very simple to swallow that the moment a person who is a Member of the Legislature incurs a disqualification, that very moment he is disqualified to continue as a Member. No, it is not so. He must know. The indemnity begins from the moment he knows he is disqualified. He must know that he has been disqualified. That is the provision in article 104 of the Constitution. That is also the provision in section 18 of the Part C States Act. That being the provision it would be quite fit and proper if we were to call this law, instead of the Vindhya Pradesh Legislative Assembly (Prevention of Disqualification) Bill, as the Vindhya Pradesh Legislative Assembly (Indemnifying of Members) Bill. It would be something. Because the Members would be penalised, and they will be penalised only under the conditions that after having known that they were so disqualified they continue to come into the House and attend the meetings of the House. If there were such people, if there were those who after having known that they were disqualified still continued to go and attend the House, they would be penalised. Article 104 says: "If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union." In this case if such a Member who was disqualified had continued to sit in the Legislature, then we could indemnify him. But will we be justified in indemnifying persons for whom Pandit Thakur Das Bhargava was arguing that they were innocent people, that they were ignorant people? Would this qualification of ignorance apply to a person who deliberately wants to flout the law after knowing that he is so disqualified? I am not prepared to believe that these people had gone there not with any desire to make money, but had just gone there as ignorant people. And in that matter the argument of Pandit Thakur Das Bhargava was that we gave them a Constitution, that Constitution gave them an Advisory Council. I find that there is nothing of that kind. The Advisory Council is a creation of the Government of Vindhya Pradesh. It has been created by an order passed in the month of April 1953. Have we got District Advisory Councils all over India? Have we got them in the Part A States? Have we got them in the Part B States or in other Part C States? The Vindhya Pradesh people or the Vindhya Pradesh Government for the matter of that was anxious to create these Advisory Councils. Was there no desire on the part of these Members, who were in the majority and who did form the Government, was it not one of their desires to make hay while the sun shines? Was it not their desire that they must make more money and more and more of it as long as the present form of the Government of the day was going on; as somebody was saying:

'कांग्रेस नाम की लूट है, लूटा जाय तो लूट''

Were they motivated with that desire that they should make more money? I should say that they were.

श्री भगवत झा (पूर्निया व सन्थाल परगना): आप भी कवि हैं? यह आप की ही बनाई हुई है?

Shri U. M. Trivedi: Some say that this small pittance of five rupees could not have moved them to go and accept these seats in the Advisory Council. It was not a question of five rupees. We do not know what was the income of those persons who had become Members of the Legislature, whether they were not in dire

[Shri U. M. Trivedi]

circumstances about money matters or whether they were very affluent persons. There is no data before us to find out what their position in life was. So we cannot say that they were just taken in or caught in a snare. There were certain Members, as the report says, who avoided it, so much so that a particular circular was also sent out that they will not be appointed as members unless they had accepted to be so. This was also an after-thought. The real desire why this office of profit is considered a hateful thing for any Member of the Legislature to accept is put down at page eleven of the report submitted by the Election Commission, and is like this that "the parliamentary life may be kept pure and unsullied and the functioning of true democracy may not run the risk of being hampered by undesirable interests". It is this that they wanted to prevent. And what are we going to do here? We have now come forward to say: all right, let them make more money, let the Government give them money. Let them hold an office of profit. We will say and declare that it is not an office of profit. There is a great deal of difference between a Minister of a State, a Minister of the Union, and the work done by the officer who is appointed on the District Advisory Council? What are his functions? Are these Advisory Councils in existence anywhere in the whole of the Constitution? Are they named in this Constitution? These members of the Advisory Council appear to me no more than just like the Maharajpramukh of Rajasthan. The Maharajpramukh of Rajasthan holds no office and he is being provided with a sumptuary allowance of Rs. 22 lakhs and in the whole of the Constitution, his name is not to be found. Similarly, these District Advisory Councils do not exist anywhere. They are not provided for under the law. They are not there by an Act of the Legislature. It is by an order of the Government that the District Advisory Councils are there and disbursements to various persons are being made in the name of these District Advisory Councils. We must put out such people. These people were regularly tried and were given an opportunity to be heard in the matter. They were all along maintaining that they were not holding an office of profit. We are not going to safeguard such people by making a provision that they can come through the backdoor. As I said yesterday in the course of my argument, article 327 lays down before us a proposition that anybody who wants to be in an elected body must go there under a law made for that purpose and by no other method. It has never provided that the franchise must be wiped out. It does not say that a man who has accepted a job should be told,—"Although you have accepted a job and you have been removed from the membership of such and such a body, we will just pass a law by which you will be a member".

One of the arguments in favour of this was that we are going to do justice, but justice to whom? I do not know. We have seen so many cases before the Election Tribunal in which, for no fault of the candidate who has won the election, his election has been set aside. Why? Simply because the scrutinising officer or the returning officer committed some mistake. For a mistake committed by the scrutinising or the returning officer, the person who has been elected as a Member of the House of the People or of a State Legislature has to suffer and he has only the satisfaction of being told by the Election Tribunal that as his election has been set aside not due to any fault on his part, they will only condone the costs against him and not that they will come out with a law that all those who have been thrown out could come through the backdoor and again become Members of the Legislatures. Have we provided that such people should continue to be Members of the House of the People? No. By virtue of the provisions of the Constitution, the Election Tribunal's finding is final. We know that in several cases retrospective legislation does take place. Nobody objects to this. When a new right is being created, when a vested right is being created, then the retrospective legislation is hateful. In this instance the Vindhya Pradesh electorate has got a vested right created by the false step taken by those Members of the State Legislature notwithstanding that they were holding an office of profit. If such people are going out, let them go out by all means. There should be no compunction. Let the fair name of our country and the fair name of this Parliament be not destroyed by the fact that we sided with those twelve people whom we found as not only qualified but who have been disqualified. It is just like a man becoming a bankrupt and wanting to sit in the house. When a Member holds an office of profit it is some sort of a moral turpitude and he can be removed from office. These people have behaved in such a manner that they have been disqualified. They should not be indemnified in the least. Having been once disqualified, they

have the audacity to come before the House and continue to sit. If the circumstances are in favour of indemnifying, it is one thing but when a finality is reached by a properly constituted tribunal, we should not try to undo a thing which has been properly done by a tribunal of our country. Otherwise the principle of *res-judicata* will disappear and we shall unnecessarily be creating precedents. Supposing a decree is passed against a great person who is a rich and influential man for recovery of Rs. ten crores. He comes to Parliament and we are sitting here guided by considerations other than honest considerations and say that that decree is set at nought. Are we sitting here as a High Court of Parliament? The whole world did not like the idea of the South African Government, after the *Apartheid* law was declared by the Supreme Court as *ultra vires*, that the High Court of Parliament should sit in judgment over that. Nobody liked it. Similar is the case here. If these seats had not become vacant, it would have been a different thing. You ought to have been very vigilant about it. You have been sleeping over it. You had ample time. You did not open your eyes then. Even after the decision of the Election Tribunal, you had plenty of time i.e., before it again came before the President. This matter started in the month of April, 1952. It was reported in the month of October, 1952. A letter was sent in January, 1953 and the decision was arrived at in March, 1953. All this time you were not doing anything. When the finality was not reached, you could have done something for face saving. Now we cannot say that we have no faith in our tribunals and our President who is bound to follow its decision. The Election Commission is put on the highest pedestal. Under these circumstances and taking in view article 327 of the Constitution, I submit that this cannot be indemnified and it is not proper for our country and for our Parliament to undo an act or undo a decision which has been properly and legally arrived at. We should therefore pause and consider whether the arguments advanced by the learned Attorney General, by Mr. C. C. Shah or by Pandit Thakurdas Bhargava will hold water. Pandit Thakurdas Bhargava in his arguments was telling us that he was guided by the consideration of justice and justice alone. Well, we know that as lawyers, there are two sides to be faced in a particular case.

** ** ** **

Mr. Deputy-Speaker: Other arguments may be found to show how they have acted.

Shri U. M. Trivedi: The position that I was just exposing before the House was this. Those of us who are guided in these matters by fair considerations, when the question is whether a particular thing is decent for us to do, and becoming of us, we must set aside at least for the moment all considerations of party politics from us and we should concentrate upon this question: whether the act that we are going to do, whatever be the result of it, is an act which, sitting as judicial officers and judicial minded people we can do; while we want to see equity and justice according to the dictates of good conscience, are we going to undo an act of a properly constituted tribunal, which has pronounced its final judgment. If we have that consideration before us, we can come to only one conclusion, that this Parliament not being a sort of a High Court, not sitting in judgment over the pronouncement of the highest tribunal, is not going to undo what has been done properly. Pandit Balkrishna Sharma, the poet, with a poetic mind, spoke very clearly on this point that we must forget all our party considerations and we must hold up the dignity of this House to the public at large and the world at large, by saying that we are not agreeable to put back these twelve Members who have been ousted by their own conduct from the Legislature of Vindhya Pradesh and ask them to come by the backdoor and go into the House.

An Hon. Member: He was not speaking as a poet.

Shrimati Sucheta Kripalani (New Delhi): Much discussion has gone on this small Bill. The Bill looks very small and apparently very limited in scope. But, it is of great constitutional and legal importance and even of political importance. Hence so much interest is being evinced and so much discussion has taken place. I would very much like the discussion on this Bill to be done in a dispassionate manner. Yesterday quite a good deal of heat was generated which was perhaps unnecessary. As far as this Bill is concerned, it goes to the fundamentals and therefore, we should look at it not from any party angle; but we should try to assess the matter and reach a solution by which the tone and standard of democracy functioning in India will improve. That is why I want to study the Bill and assess it in a dispassionate way.

Our democracy in this country is in its infancy. We ought to establish healthy and good conventions so that democracy may grow in this country. We have a federal structure. This is the supreme Legislature in the

**Expunged as ordered by the Chair.

[Shrimati Sucheta Kripalani]

country. Whatever we do sets a tone to the work of the other Legislatures. We have, therefore, to be extraordinarily careful and we have to see that we function in an unbiassed way, that we study things objectively and arrive at conclusions which are good now and which will be good for the future. If we approach this subject with this view, I am sure we can arrive at the correct solution.

I do not wish to go into the question of legality, whether Parliament has got the authority to enact this Act or not. Much has been said and legal luminaries yesterday regaled us with their legal knowledge. I do not want to encroach on that field. I accept that Parliament has got very wide authority and that Parliament can make Acts as well as unmake them. The learned Attorney-General has given an opinion and I do not want to cross swords with him. I am concerned more with the propriety of this action and the benefit of this action, whether this action would be good for us now as well as in the future.

10 A.M.

Let us take the facts of the case. Twelve people in a small State, Vindhya Pradesh have been disqualified through the application of the disqualification clause of the Part C States Act and they have been unseated. What are we seeking to do? We are seeking to reinstate these unseated Members by an Act with retrospective effect. I do not wish to raise the question of *bona fides* or *mala fides*. This question was raised on the floor of the House yesterday. I accept that these Members accepted these posts without realising that they were incurring a disqualification. It is inconceivable that the Government of Vindhya Pradesh wanted to disqualify the entire Members of the Legislature and therefore made them members of the Advisory councils. I accept it as a *bona fide* mistake and that there was no *mala fides* in it, and that these people are victims of Government's ignorance in the matter. That is accepted. If they are the victims of Government's action, we have sympathy for them. Mr. Shah very eloquently pleaded that equity and justice demand that these people who have been inadvertently thrown out of their seats, must be restored to their seats. I agree with the argument that we should deal with clemency, sympathy and equity. But, I want to draw your attention to the fact that these twelve Members whose names are mentioned in the Schedule of the Bill are not the only people who, without any fault of theirs, have incurred disqualification and so have lost tneir seats. In the last few months, we have seen that the Representation of the People Act and the Constitution are full of lacuna and that people, without any fault on their part, have lost their seats. For instance, you know a whole lot of cases where for the wrong rejection of some nomination papers, elections have subsequently been set aside. I will take a more serious case. Take the case of a double member constituency, where one member's nomination paper was wrongly rejected and the other member, for no fault of his own, without having incurred any technical defect, is also thrown out. What I want to submit is that these are not the only twelve people who have been unfairly dealt with, if you want to use that word. There are lots of people whose cases it is necessary for us to go into, who because of certain technicalities, have been thrown out, without any fault of their own. I want equity; but it must be non-discriminating equity, equity for all. Let us take all such cases and let us pass a general Act indemnifying them and restore them to their seats. I am ready and I shall co-operate. Here, I suspect there is a special softness for these twelve Members. Why? If I am convinced that this special softness to these twelve people does not emanate from any political motives, then, I am all with you. I see at the fag end of this session, this matter, which was not accepted by the Business Advisory Committee, has been brought in. Why? We are pressed for time. We have a very important Bill, the Estate Duty Bill, to go through, a Bill which is of very great significance to the country. We are deferring that and we have brought this Bill. Why? In order to restore twelve Members to their seats in a small State, Vindhya Pradesh.

Let us study the attitude of the Vindhya Pradesh Government as well as the Central Government to this matter. Let us go into the facts. I would like to tell the House how these District Advisory Councils came into existence. The District Board elections were to take place. The party in power or the Government in power, whatever you want to say, were apprehensive that if elections were to take place, then, all kinds.....

Pandit K. C. Sharma (Meerut Distt. —South): On a point of order, Sir, are facts relevant? In view of the fact that there is nothing on record relating to the topic, how can an hon. Member know whether this is a fact or otherwise.

Shrimati Sucheta Kripalani: I have not yet finished.....

Pandit K. C. Sharma: The hon. lady Member may have some patience. She may like to yield or not, but she shall have to yield.

Mr. Deputy-Speaker: There is a point of order.

Pandit K. C. Sharma: There is nothing on record to show that what the hon. lady Member says is correct or otherwise. There are no district board papers here. So, it is irrelevant or rather unjustified to make any reference whatsoever to district board or municipal board elections.

Mr. Deputy-Speaker: I do not think the hon. lady Member is saying that any of us is a district board member here. We may or may not be. It is only a question whether it is holding an office of profit. Any specific instance where a similar thing has been done or has not been done is relevant; not general observations of this kind.

Shrimati Sucheta Kripalani: I was not allowed to complete the sentence. The interruption was premature.

Shri Jajware (Santal Parganas *cum* Hazaribagh): There are district board members.

Shrimati Sucheta Kripalani: I should be allowed to complete the sentence. He interrupts before I conclude what I want to say.

Shri Nambiar (Mayuram): Anyhow you will win your twelve people back, but wait.

Shrimati Sucheta Kripalani: As far as my knowledge of the affair goes, they were not anxious to have district board elections. Therefore, this scheme of District Board Advisory Councils came into existence.

Mr. Deputy-Speaker: In Vindhya Pradesh?

Shrimati Sucheta Kripalani: Yes. I am only giving you the factual background, and I have also said if the facts are wrong, I shall be very happy to be corrected.

Mr. Deputy-Speaker: Are there District Boards under any constitution there?

Shrimati Sucheta Kripalani: In every Province, there are District Boards.

Mr. Deputy-Speaker: This is a part C State. Have they got....

Shrimati Sucheta Kripalani: As far as my knowledge goes, this has not existed anywhere.

Mr. Deputy-Speaker: In the other Provinces which were directly managed by the British Government before 1947, there were local Boards, Municipalities etc. Is it the contention of the hon. Member that there were District Boards in the State, and that instead of reorganizing them or allowing elections, this other method was adopted?

Shrimati Sucheta Kripalani: That is what I wanted to say. If the facts are wrong, you correct them.

The Minister of Home Affairs and States (Dr. Katju): Of course, they are wrong.

Shri Dhulekar (Jhansi Distt.—South): They are wrong.

Mr. Deputy-Speaker: Hon. Members will have a chance to reply.

Shrimati Sucheta Kripalani: Let him correct me. He will get his chance to speak.

Shri K. K. Basu (Diamond Harbour): He miscorrects many times!

Shrimati Sucheta Kripalani: First they decided to have the District Board Advisory Councils. Then, the District Board Advisory Councils were appointed on the 26th April, 1952. Then, one Member Mr. N. P. Singh sent a letter to the President drawing his attention to the disqualification incurred, on the 30th October. Then he raised the same question on the floor of the House in the Vindhya Pradesh Assembly on the 5th November, but nothing happened from October to November. His letter is lying with the President. No action had been taken. So, he came to Delhi and saw the President in December. After that, the leaders of Opposition of this House sent a letter to the President drawing his attention to the fact that this matter has to be settled. That happened on the 16th December. Then, after the 16th December one month passes before the President is allowed to function. He refers the matter to the Election Commission on the 17th January. The Election Commission goes into the case and comes to a decision on the 2nd March. The President promulgates an order declaring the seats vacant on the 31st March. Then the Speaker announces that the seats have fallen vacant. From this long procedure you will see that the attitude of the Government has been obstructive. There is no attempt to settle the case quickly. There is always an attempt to delay. A lot of questions were raised behind the door about which we do not know. We can only surmise. And after that what happens? The seats have been declared vacant. The usual procedure is that the Election Commission should arrange for a by-election. But we do not hear anything about the by-election, but this Bill comes to the House. So, the whole procedure is

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suspect, makes us feel that there is something wrong somewhere.

बाबू रामनारायण सिंह (हजारीबाग पश्चिम) : जरूर।

Shrimati Sucheta Kripalani: That the Government is deeply involved in the case is further proved by other facts. During the hearing of this case, the Election Commission mentions that on the 16th December, i.e., after Sardar N. P. Singh had set this whole question into motion, the Government tried to modify their original order in order to facilitate exoneration of the disqualification they had incurred. Here I shall read out to you, Sir, from the proceedings of the Commission. Here it says:

> "By a subsequent order, No. 129 of the 6th December, 1952..... order No. 47 previously referred to was amended to the effect that members of the Legislative Assembly representing a district would be members of the District Advisory Council....."

—mark these words—

> "Provided they had given their consent in writing to act as such."

This extraordinary proviso was added in order to save them from incurring the disqualification, and very rightly this plea was not accepted by the Election Commission.

Now, this is before the Election Commission. This is a matter of election dispute. Let the parties concerned appear before the Election Commission. But who appears? The Government representative appears. I have not seen the Government taking so keen interest in other election dispute matters. Why in this case the Government takes special interest? That makes us feel that Government is interested in this case. We have seen that when we discover such a technical flaw or a lacuna in a matter, the Government is not so keen to come forward and settle the matter, to rectify it. I shall give you an analogy. It is not a very close analogy, but something which has occurred very recently. Let us take the case of the Bank Award. The Sen Award was a little in favour of the employees. This was set aside by the Supreme Court on a small technical ground. Government could easily have revalidated it by an Ordinance, but Government did not do that, did not care to do that. The people had to go through the gamut of a second Award, the whole litigation, and the second Award came which is unfavourable to them.

I want equity in all spheres. I want equity for all. If you can set right the disqualification of twelve Vindhya Pradesh Members, I do not understand why in this case also, Government did not exercise similar principles of equity and help them in the matter.

I have no objection to a general law exempting certain types of offices. I personally felt that the Removal of Disqualifications Act that we have passed was rather narrow. We can improve it. We can bring an amendment to the People's Representation Act. We can bring an amendment to the Constitution. I have no objection. But when you narrow down, when you do it merely for twelve Members then I feel there is something wrong, that you are misusing this House, this august body called Parliament. We are here discussing the disqualification of twelve particular Members in which the Government is interested. It is also a very dangerous precedent. Suppose in some other Province a similar thing happens, then the Government will bring forward another Bill. Where will we end? There is no end to this kind of thing. And this brings us under the mischief of article 14 of the Constitution,—discrimination. If we go on discriminating like this, then we nullify the Constitution; we render democracy into a farce.

Let us take the other question, the question of the propriety of filling the seats declared vacant by the President. Much has been said. I do not want to say much on it. But, as has been pointed out by several Members, we have a written Constitution. We have a machinery provided for dealing with election matters under the auspices of the Election Commission. The position of the Election Commission is very high. The Commission has functioned in this case through the President. So the President and the Election Commission have come to a decision. Now, what are we seeking to do? We are wanting to legislate, trying to bring a *post facto* measure. This, I consider, is improper. Let us take the case of the Supreme Court. I think the position of the Election Commission is somewhat like that of the Supreme Court. Now, suppose the Supreme Court arrives at a decision, gives a judgment. They are bound by the existing law. Under the law they give a particular decision, but we feel that the judgment was wrong, that the law was wrong or defective. We may amend the law in the Parliament. I concede that Parliament has the right to amend the law, but when we amend the law, will we be in a position to set aside the judgment that the Supreme Court gave?

Dr. Katju: Yes.

Shrimati Sucheta Kripalani: Suppose a man has been condemned to die, and he has already been hung. After four months we come and pass a Bill. Will we revive that dead man? I cannot understand. So, here I think we are assuming far-fetched powers.

चौ० रणबीर सिंह (रोहतक): वह तो कोई डाक्टर कर सकता है ।

Shrimati Sucheta Kripalani: : ऐसा कांग्रेसी डाक्टर भी नहीं कर सकता ।

Then it has been said that the President's power was there. Mr. C. C. Shah was eloquently putting his case that the President was bound to follow the advice of the Election Commission and therefore, whatever he did was very formal. Therefore, no derogation or contempt of the President's prestige is meant by this Act. Well, I want to draw your attention to the fact that these are discretionary powers which we have given under the Constitution. Here in this case we are giving him certain discretionary powers. The discretionary power is vested in him. Under that, he has acted. Let us not take a very rigid view of things. Here it was said that it was a stamping authority. I am sure the learned Attorney-General inadvertently used that word. Who is the President after all? Is the President a dummy? What about his constitutional position? Who is the personality who is the President today? The President of India is Dr. Rajendra Prasad, an eminent leader of the Congress party. He is an eminent leader not only of the Congress party, but of this country. All of us who may be sitting in the Opposition have got the greatest respect for him. He is an eminent lawyer and he knows what he is doing. I am sure, if the Government, although he is the constitutional head, asks him to do a thing, he does exercise his intelligence and understand what he is doing. So this eminent lawyer who happens to be the President of India has done this. There are discretionary powers vested in him by the Constitution. Now, we say it is all formal. He was asked to give his decision. By passing another Act, we are undoing what he has done.

When we drew up the Constitution, why did we vest the President with these powers? We vested him with these powers after much serious deliberation, because we thought that these powers were necessary for the smooth and proper functioning of the Constitution. We gave him these powers. We prescribed the machinery and we prescribed the form, how he should exercise these powers. Through that machinery, in that prescribed manner and in that prescribed form, the President has exercised the power which we gave. Now, when he has given a decision—a very right and correct decision—simply because it does not suit us, simply because it does not suit some people, one administration called Vindhya Pradesh, we ask this august House, this Parliament, to pass this Bill which we say is a small thing! And we say that no contempt is implied in it. I say contempt is implied. We asked the President to do a certain thing. After that, we now want to undo what he has done. Now, when this Bill is passed it has to go the President for his assent. One month after he gives another decision, and then afterwards another decision. By doing this you are putting the President in a very ridiculous, awkward position. Therefore, I would say that this Bill should be withdrawn.

Besides, this Bill involves discrimination. In one case where an elected Member, for some reason or other—may be through no fault of his—loses his seat, you order a bye-election. In another case, when the same thing happens you do not order a bye-election but by a measure of legislation you tell the people that 'these people are your representatives'. This is discrimination, not only in the case of the Members who are standing for election but in the case of the voters also. It goes very much against the fundamental principles that we have adumbrated in our Constitution. It is absolutely against the spirit of the Constitution. It is against article 14 and against article 19(1) (a).

Therefore, I have objection to the Bill because it is a very narrow Bill, because of the manner in which the Government have handled the whole matter, the manner in which this is being attempted to be rushed through at the fag end of the session, because only twelve Members are involved. Now, what will happen? Suppose these twelve Members are no longer in the Vindhya Pradesh Assembly. I would have understood in the beginning when we thought that the entire lot of the Members would be involved and it would bring a great political crisis there. But now the Election Commission has narrowed down the scope of this and only twelve Members have been disqualified. What difference does it make? I would draw your attention to the fact that some of our party men are also in it. But that is not the point. We have to see what is just and do accordingly. What is the picture? We have got in the whole of India how many elected

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Members in the Parliament and different Legislatures? 3877. Out of these, twelve have been unseated. If only twelve are unseated and if we order a bye-election for these twelve seats, heavens will not fall. The whole Constitution of India will not be in jeopardy. That is why I want to say that the Government have not made out any case. There is no proper case for doing this thing which will put our President, who is respected by the whole of India, in an awkward position. It raises constitutional issues, it creates innumerable difficulties and at the same time it reflects on the Government. I would like the Government to act in such a manner that nobody—even we in the Opposition—can point a finger at the Government. I would like that Government always act rightly. I would like that Government always stand for equity and justice.

So, I think the effect of this legislation will not be good. What will be the psychological effect of such a measure in the country? The people—average people—will not understand all these niceties and constitutional and legal implications. All that they will know is that twelve Members were unseated, and the Vindhya Pradesh Government and the Central Government wanted that they should be restored by hook or crook, by any method, taking advantage of some legal loopholes by which they can act and put them back there.

Therefore, Sir, in all humility I plead before you to kindly prevail upon the Government to withdraw this Bill. Bring in a Bill of wider import, of general scope; bring a fair Bill, or bring an amendment to the Representation of the People Act, or a Bill to amend the Prevention of Disqualification Act or an amendment of the Constitution; all our support is with you and we shall always help the Government to be just and equitable.

QUESTION OF PRIVILEGE

ARREST OF A MEMBER

Mr. Deputy-Speaker: I have just received a telegram, at 9.55, from the Chief Secretary to the Jammu and Kashmir Government:

"Hon. Speaker, House of the People, New Delhi.

Dr. Syama Prasad Mookerjee declared publicly his intention to enter Jammu and Kashmir State in connection with his agitation launched against the Government by Praja Parishad, a local party. In Jammu for the last six months an organised movement started with a view to subverting law and order through unlawful and violent means. This movement had the avowed support of Bharatiya Jana Sangh in India. Dr. Syama Parsad Mookerjee as the President of Bharatiya Jana Sangh did not merely justify this unlawful movement but also lent it the full support of the Sangh for the purpose of continuing and intensifying it. Even today in some parts of Northern India volunteers inspired and organised by Bharatiya Jana Sangh have in defiance of law been demonstrating in support of this movement. It was apprehended that the presence of Dr. Syama Prasad Mookerjee who along with his political party has been supporting the subversive movement launched by the Praja Parishad in Jammu would constitute a grave threat to public peace and law and order. It was, therefore, with deep regret that the Jammu and Kashmir Government had to serve a notice under section 4(1) of the Jammu and Kashmir Public Security Act on Dr. Syama Prasad Mookerjee according to which his entry was banned into the State. Dr. S. P. Mookerjee, in defiance of this notice, entered the territory of Jammu and Kashmir State. Taking into account the presence of Dr. S. P. Mookerjee in the State and also the threat that it constituted to the peace and tranquillity of the State, the Inspector General of Police ordered his detention under section 3 of the Jammu and Kashmir Public Security Act.

Chief Secretary."

Kumari Annie Mascarene (Trivandrum): When was this received by the Secretary, Sir?

Mr. Deputy-Speaker: 9 55.

Kumari Annie Mascarene: How is it that it was not read out earlier when the House was sitting?

Mr. Deputy-Speaker: The House was in session. It has been placed before me at 9.55. Mr. Trivedi was on his legs and I did not want to interrupt. Even now when Mr. Mukerjee was about to speak, I called him to stop. This was brought to my notice. There is therefore no harm. I received it at 9·55.

Now, so far as the notice is concerned, this was received at 8.45 A.M. If it should stand over till tomorrow, I have no objection. Otherwise, in view of this telegram, if this is to be disposed of then also I have no ob-

jection. The hon. Member who wanted to raise this....

Shri N. C. Chatterjee (Hooghly): May it be taken up tomorrow after Question Hour?

Mr. Deputy-Speaker: Very well. In all matters of privilege, the consent of the Speaker is necessary. I will look into it and if the Speaker gives his consent, he may raise this point; otherwise, I will intimate him.

The Minister of Home Affairs and States (Dr. Katju): When was the telegram despatched, Sir?

Mr. Deputy-Speaker: The telegram was despatched from Srinagar, I think it must be at 11 o'clock yesterday. It is not decipherable. I will find out. We received it here at 9.55. As to the exact time it was despatched, I will find out. I will consider the matter and if the motion is permitted, he can raise it tomorrow.

VINDHYA PRADESH LEGISLATIVE ASSEMBLY (PREVENTION OF DISQUALIFICATION) BILL—*contd.*

Shri H. N. Mukerjee (Calcutta North-East): I oppose this Bill, I oppose it root and branch because I consider it a most unsavoury piece of legislation and if we care for the decencies of political life, we ought to throw it out unanimously. Now, in regard to this Bill, I fear that even the Prime Minister had something of an uneasy conscience. I say this because when this Bill came up on Saturday, certain questions were raised regarding the opinion of the different political groups in this House about the feasibility of discussing this Bill during this session. But, even before we had gone into the merits of the matter, the Prime Minister was pleased to make certain observations. He said it was a necessary Bill, an urgent Bill and an important Bill about which the law is 100 per cent. clear. The Prime Minister went on to make these observations because—I suggest, Sir—he had something of an uneasy conscience about it. He went forward also to refer particularly to me, because I had asked a question previously, and said that I should study the law carefully because it has to be approached from a legal point of view as much as it has to be approached from any other point of view.

Now, coming from the Prime Minister, this advice regarding my studying the law carefully is somewhat ironical; but, at any rate, we find that he said the law is 100 per cent. clear on the point. I am sorry the Prime Minister is not here, but, sometimes I have a feeling that like the 18th century encyclopaedists he specialises in omniscience, but, of course, the rest of us, poor mortals do not try that kind of thing. But, at any rate, from what we can find out about the law, it seems to be very clear to us that this particular Bill violates not only the letter but also the spirit of the law. It may be a necessary, urgent and important Bill from the viewpoint of the caucus that Congress practically is in Vindhya Pradesh and so many other places, but, from any other point of view, this cannot be considered to be a necessary Bill, an urgent Bill or an important Bill. But, on the contrary, I say that it is a Bill which militates against all that we understand by the decencies of political life. Therefore it should be unanimously rejected. (*Hear, hear*)

My hon. friend, the Home Minister when he made his preliminary observations also, as is expected of him, made a rather cavalier treatment of the entire subject. He said that the Vindhya Pradesh Government had [illegible] in complete good faith and that it was a trivial matter, a trivial matter which should be set right by this piece of parliamentary legislation. Now, I should think that perhaps this is a trivial matter from the point of view of the Home Minister but there are certain principles involved in this legislation which make it very far from being a trivial matter.

We had the advantage of hearing the learned Attorney-General. He tried to point out to us that this Bill is neither unconstitutional nor illegal. He said it was quite correct from a constitutional point of view. He said it was legally and technically quite valid. He said also at the same time that as far as the proprietics are concerned, this Bill was perfectly all right. Now, with all respect, I should say that I wish he did not refer to the propriety or otherwise of the matter. I wish he had not tried to give us his views about the propriety of the matter. Of course, he came here to give us his very learned opinion in regard to the legality, the constitutionality and the technical validity of the matter. But, even in so far as that goes, his argument did not appear to us to be very convincing. The main point which the learned Attorney-General sought to make was, that the disqualification that was incurred, the procedure that was followed by the Election Commission and the issue of the Presidential order were all done not under the Constitution but under the Part C States Act, which was merely a piece of parliamentary legislation over which the Parliament had, as in any other

[Shri H. N. Mukerjee]

normal piece of legislation, perfect jurisdiction to alter or amend either prospectively or restrospectively. That in a nut-shell was the argument which he sought to put forward. He said also that the decision that the President, on the advice of the Election Commission, gave was accepted by the Government as correct, but it was only in order to cure the effects of a correct decision by the President on the advice of the Election Commission that this legislation was being brought. He said there was no intention to flout either the Election Commission or the President but that a correct position had to be uncorrected as it were by some mysterious process.

Now, I do not understand this argument that the Constitution is not involved in the process that has culminated in the order of the President that certain people, twelve Members of the Vindhya Pradesh Legislative Assembly, had become subject to the disqualification, and had therefore had to vacate their membership of the Legislative Assembly of that State. I think and I submit for the consideration of the House that the Constitution is very much involved in this process. Every necessary step was taken by the President,—who, I take it, presumably acts on the advice of the Cabinet—every step was taken by the President to see that the form and the spirit of the law were observed in this matter. This was done with a specific reference made repeatedly in the Election Commission's finding and the President's order itself to the provisions of the Constitution. The President in his order dated 31st March, mentions these provisions of the Constitution more than once. He says in the opening paragraph that a question had been raised whether certain Members of the Vindhya Pradesh Assembly had become disqualified under section 17 of the Government of Part C States Act read with sub-clause (a) of clause (1) of article 102 of the Constitution. This shows that he had taken the Constitution into consideration. Then, in the operative paragraph, the President said that these Members had become subject to the disqualification mentioned in section 17 of the said Act, read with sub-clause (a) of clause (1) of article 102 of the Constitution. The President and the Election Commission had very much taken into consideration the articles of the Constitution before they had proceeded to take any steps in this matter.

Now, if we go, in fairness to the Election Commission, into the finding which it came to then we shall see it even more clearly. Really in his state of things, I should say, to argue as the Attorney-General has tried to do that the Constitution is not in the picture at all, that merely the Part C States Act is in the picture, is to suggest, with all respect to the learned Attorney-General, that law has degenerated into logomachy, that we are arguing in a vein which is absolutely alien to the spirit of the Constitution, to the spirit of whatever laws we happen to have. As far as we are concerned, we are not head over heels in love with the Constitution. We know there are so many things in this Constitution, so many lacunae in this Constitution that have got to be filled in if it is going to serve the democratic aspirations of the people. But, even as it stands, the Government of the day has chosen to take certain steps which violate the spirit of the Constitution, which violate the letter of the Constitution, and that is why, it is very important that we deal with this Bill very carefully and see that nothing is done which jeopardises the development of decent political traditions in our country. The Election Commission gave a very clear and reasoned statement of its findings. In order to fill in whatever lacuna might possibly be discovered by legal experts, the Election Commission made it very clear from the very beginning why the President had acted and acted in the manner in which he had done. In page 3 of this booklet supplied to us, entitled *Documents connected with the Vindhya Pradesh Legislative Assembly (Prevention of Disqualification) Bill*, we find the findings of the Election Commission. It is said there by the Election Commission:

> "The Government of Part C States Act, 1951 (XLIX of 1951) contains provisions similar to articles 101 as also 191 of the Constitution regarding the question of the disqualification of members for various reasons including the holding of offices of profit. The Act, however, makes no provision as to how such a question has to be raised and decided. Under the Constitution the procedure to be followed in respect of these matters has been laid down under articles 103 and 192 which deal with the cases of disqualification of members respectively of either House of Parliament or either House of the Legislature in Part A and Part B States. This difficulty was apparently felt after the representation under consideration was actually made to the President."

The representation was made, you will remember, on the 30th October. The President took a considerable time for making up his mind. He referred the matter to the Election Commission on the 17th January, 1953. During the interim period, he was taking the advice of people who were near about him, including, I hope, the Cabinet; including, I expect, the Minister of Law, and including, I am sure, the Minister of Home Affairs. So, what happened was that the President took note of the technical difficulty which might be raised by legal pandits because of a lacuna in the Part C States Act. The difficulty having been felt, in the words of the Election Commission,—

> "On the 14th January, 1953, the President made an order in exercise of the powers conferred by Section 43 of the Government of Part C States Act—whose provisions correspond to the provisions of articles 103 and 192 of the Constitution—, the deciding authority being made the President himself."

So, the whole procedure was gone through in order to adapt the provision in our Constitution for purposes of particular application in the case of this Part C State. I should think that it should be taken for granted that there is provision in the Constitution in regard to disqualifications being incurred on account of holding offices of profit by Members of the State Legislature. Surely then, this principle is attracted in the case of Part C States the moment you constitute a Legislature for a Part C State. I cannot, for the life of me, understand arguments purporting to say that the Constitution lays down certain criteria regarding disqualification of Members of either House of Parliament or of either House of State Legislatures in Part B or Part A States, but that those criteria do not apply to Part C States, because for Part C States we have another piece of legislation. This is a kind of thing which is unknown to the principles of the interpretation of the Constitution. But in order to prevent the Government from taking recourse to this kind of measure—perhaps I should not say 'Government'—but in order to prevent the technical experts from taking advantage of this kind of thing, the President took—I presume, on the advice of his advisers who are represented here—special precautions to see that this was completely regularised and that he proceeded to act on the application that was sent to him regarding the alleged disqualification which was supposed to have been incurred by these Members of the Vindhya Pradesh Legislative Assembly, according to the provisions of the Constitution. The President, therefore, proceeded in an unexceptional manner and on the basis of an interpretation of the Constitution which, I am sure, everybody will accept as absolutely correct.

Having said that, let me say that the Election Commission proceeds to give a very circumstantial description of the entire case. It took a lot of pains over it. It dealt, not only with matters of principle, but also with matters of detail as they affected those Members who were likely to come under the mischief of the disqualification. There are certain observations made by the Election Commission to which I would like to draw the attention of the House. The House is already in possession of this document, but I want to invite its special attention to certain things. On page 8 of this document, it is said by the Election Commission:

> "If the Executive Government have untrammelled powers of offering to legislators any appointments, positions or offices, however they may be described, which carry emoluments of some kind or other with them, there would be a clear risk that an individual member might feel himself beholden to the Executive Government and thus lose his independence of thought and action in his capacity as a member of the legislature and a true representative of his constituents. That will be a very great danger to the proper development of democratic institutions and the democratic way of Government in the country; and this is the likely abuse which the Constitution seeks to prevent by the provisions which we have under consideration at present. If the membership of a committee, council, board or whatever it is, can be made use of by a Government to put a member of a legislature under its obligation in the slightest way, such membership should be regarded as an 'office' which would come within the purview of the penal articles of the Constitution."

The Election Commission further proceeded to discuss the other points connected with the amount of money which was drawn by those Members who had accepted the appointment as Members of the District Advisory Council and so on and so forth. The Election Commission also took into account the fact that the money involved was by no means very substantial. At the same time, it found out that

[Shri H. N. Mukerjee]

there were certain categories of Members who, by their own behaviour had come very definitely within the mischief of the Constitution. The Election Commission differentiated between different categories of Members including those who attended the meetings of the District Advisory Councils and drew T.A. and D.A. Then, there were Ministers and the Speaker, who did not act as Members of the District Advisory Councils. Then there were three Members of the Assembly who refused to accept the membership of the District Advisory Councils. Then, the Election Commission listed 27 Members who attended meetings, but who did not actually draw any D.A. or T.A. Ultimately, the Election Commission came to the decision that it was only those people who actually lived in certain district headquarter towns, *i.e.* people who had no business to draw either T.A. or D.A. for doing work on the District Advisory Councils, it is only those particular Members whose behaviour was especially egregious, and the Election Commission differentiated them from the rest of the lot and said, "These twelve are the people who have definitely and unequivocally incurred the disqualification, and therefore, it is our finding that the provisions of the Constitution read with section 17 of the Part C States Act ought to be applied against them and their seats should be declared vacant." This was the finding of the Election Commission, arrived at after very careful consideration.

Now, under the Constitution we have given the Election Commission the job of resolving doubts and difficulties. The Election Commission has to decide doubts and disputes arising out of or in connection with elections to Parliament and to the State Legislatures. We have heard Government talking from time to time about the Election Commission being one of the pillars of the Constitution. I should say again that personally I am not so fond of the Constitution. If I had my way, I would have it changed very drastically. I find that the Home Minister is nodding his head in a very disparaging fashion, but I would tell him that I would have the Constitution very drastically changed by really democratic methods. I am not actually in love with the Constitution. But you are. You say that the three pillars of the Constitution are the Election Commission, the Supreme Court and the Union Public Service Commission. You say it. And here is the Election Commission which, in the proper exercise of its functions which are to solve all doubts and difficulties in regard to cases of this description, has come to a certain decision and it has communicated that decision to the President and the President acting under advice of the Election Commission, which is completely in order, issues an order. The order is sent to the Vindhya Pradesh Legislative Assembly. The Speaker gets it. He reads it out in the Chamber. There is an automatic vacation of seats by the Members concerned. Automatically, special writs ought to have been issued for the bye-election as far as these vacant seats were concerned. Nothing of the sort was done. Therefore, one of the three pillars of the Constitution was simply disregarded and thwarted by the Government of the day, because of reasons which I hesitate to characterise. This kind of thing is happening, and it is a kind of thing to which we should call a halt. I know that certain arguments were put forward yesterday—very ingenious arguments—with a considerable amount of intellectual subtlety and sophistry by my hon. friend Mr. Shah from the other side. He said that there could be no question of finality; that we here, as the Parliament, that highest law-making body in the realm, were supreme; that after all, we can re-open everything, etc. etc. I did not hear his speech entirely. I do not know if he quoted Bagehot's famous saying that Parliament can do everything except make a woman a man or a man a woman. I do not know whether he said it. But he did make this point that finality is a matter which Parliament can always and everywhere reopen. Then where shall we be?

The other day my hon. friend Mr. Chatterjee put a very pertinent question to the learned Attorney-General. The learned Attorney-General parried with it by saying that everybody knows that we have a written Constitution and he need not answer it. But the irony behind Mr. Chatterjee's question regarding the existence in this country of a written Constitution was deliberately ignored, because it was going against the argument which was put forward on the side of the Treasury Benches.

We have a Constitution here and the powers of Parliament are limited to the extent it is laid down in the Constitution, as long as it exists. There are ways and means of changing this Constitution. But if we are going to play ducks and drakes with the idea of finality where shall we be? My hon. friend Mrs. Kripalani said a little while ago that the Supreme Court after all has got certain rights vested in it by the Constitution and by Acts of Parliament and there is a finality about its decisions—there is

a finality about judgments of the Supreme Court. Do we take it that we can reopen judgments of the Supreme Court? If we do so, it means an end of all proper behaviour as far as administration of justice in this country is concerned.

Of course, Parliament can do a lot of things—but Parliament can do it only within the ambit of its jurisdiction and especially when you have got a written Constitution you cannot fly in the face of that. Government on this occasion has actually done so. Government has done so, I fear, because—as Mrs. Kripalani, being an extremely polite and modest person, suggested very mildly—there is a story to the whole thing. What is that story? In the Vindhya Pradesh Assembly there are sixty Members; one is dead. Of these 40 are Members of the Congress and 19 belong to the Opposition. Of those who are disqualified, as many as 11 were Congress and one belonged to the party represented by my hon. friend Mrs. Kripalani. Now there are 29 Congress people and 18 in the opposition. But the position in Vindhya Pradesh is such—I shall not mention names, they remind you of the days of outworn feudalism—that they have been fighting like Kilkenny cats to establish themselves in power. The same thing happened in Rajasthan and so many other places. Because of this fluid position of the Congress in Vindhya Pradesh, it is very important for Congress today to ensure that these eleven people out of the twelve who are disqualified should be brought back to their seats immediately without having recourse to by-elections which ought to be held at once in accordance with the provision of the Constitution, in accordance with the natural rights of the people of our country and all decent and democratic political behaviour. I say, therefore, that this Bill leaves a very sour taste in the mouth; it flies in the face of all political decency. It suggests a sort of presumptuousness on the part of Government which it is the duty of every honest legislator to resist as far as possible. It is a piece of legislation which is symptomatic of the very mischievous game of power politics which is going on in Vindhya Pradesh and certain other areas of our country. It is being used as an instrument of caucus administration and that is why we must all raise our voice very seriously and strongly; we must see to it that if we are really and truly faithful to our duty as legislators of this Parliament, we should throw out this very mischievous Bill unceremoniously. We would be happy if they reconsider the matter. But I have no hopes. They are trying to push it through straightaway by saying it is one hundred per cent. legal, it is urgent and it is important.

I should say again that as far as we are concerned, we must make our position very clear that we are not going to tolerate this caucus administration in the face of the demands of the people, in the face of the decencies of democratic political life.

Shri G. H. Deshpande (Nasik—Central): Since yesterday morning I have been very patiently listening to speeches of the Opposition benches. One member after the other from the Communist and communalist benches got up and tried to sermonise on democracy. Communists when they speak, always speak in extremes and the last speaker who was on his legs just now also spoke in extremes. They are strangers to moderation. The cat came out of the bag in the last sentences that were uttered by the gentleman who was speaking last. It is said that apart from constitutional and other considerations, this Bill has been brought forward in this House for party purposes.

बाबू रामनारायण सिंह : इसमें क्या गलत बात है ?

श्री० रणबीर सिंह : यह बिल्कुल गलत बात है ।

Shri G. H. Deshpande: We have listened patiently for two days to their strong and violent criticisms, but the hon. Members from the Opposition have no patience. They have no love for democracy. They are not allowing us to reply to them. Is that the love for democracy that they hold? It is tyranny of the minority from which we are suffering in this House.

Dr. N. B. Khare (Gwalior): That must be of the majority.

Shri G. H. Deshpande: Many hon. Members of this House seem to be under the impression that this is a piece of legislation, of such a nature as has been brought for the very first time. That is not a fact. Not only has legislation of this type been passed in this House before this, but even in provincial Legislatures, legislation of this type has been passed and that too not for Congressmen.

It was in 1937 that Dr. Ambedkar incurred disqualification. He was a professor in a Government Law College. He was elected to the Bombay Legislative Assembly then. He had incurred a disqualification. It was in the power of the Congress party then whether to continue his membership or not. The Congress party passed a Bill by which that office of professor-

[Shri G. H. Deshpande]

ship in a Government college was declared not to be an office of profit. If the Congress party wanted, Dr. Ambedkar could have been unseated. But they thought it wise, they thought it proper, that that office should not be considered to be an office of profit, so they removed his disqualification. In that case also retrospective effect was given by the legislation to remove the disqualification. You know, Sir, that Dr. Ambedkar was never a Congressman and not so at all in 1937. So, it was not done out of party considerations.

Hon. Members who sit opposite always think in terms of party. They never think in terms of the community or the country. The Congress party has never thought of in terms of party on questions like the present. We have been inspired by the spirit of serving the nation as a whole, the community as a whole and we are never actuated by party feelings.

Then, in Bombay again, there was my friend, a Member of the Council, Shri Mahajani, who has recently been appointed Vice-Chancellor of the Delhi University. He also had incurred disqualification. A law was passed in Bombay with retrospective effect and his membership was continued.

What has happened in this case? So many glowing tributes were paid to the Constitution. It was really amusing to listen to hon. Members of the Communist party and communalist party sermonising on democracy. What after all, they asked, is going to happen to the country and to the ballot box? Are you not going to protect the sanctity of the ballot box? For the sake of the sanctity of the ballot box, it is necessary to pass a legislation of this type.

What after all has been done? The twelve Members have been returned to the Vindhya Pradesh Assembly by an overwhelming majority. They were the chosen representatives of the people and what right have you to say that they should go away without any reason. Even the hon. lady Member who was on her legs said that this is not a thing for which we should say that these Members should cease to be Members. She said that a legislation of a general nature should be passed by this House. Then she will have no objection. Not a single Member from the Opposition has said anything to suggest that these offices which the twelve Members held should be considered as offices of profit. Do not the Members of Parliament who come over here get daily allowances? Even the hon. lady Member who spoke, though she is from New Delhi, gets daily allowance. What objection is there if these Members took some tonga charges? For that should their seats be declared vacant? Consider it on merits. Not a single Member who spoke against this Bill has maintained that these were offices of profit. Unanimously this House thinks that that office should not be considered an office of profit. Then why is it that these Members oppose it? Why should the electorate be deprived of their chosen representatives? Why is it that the honour of the ballot box should not be maintained? Why is it that the sanctity of the ballot box should not be maintained?

Look at it from the common man's point of view. We have elected our representatives. They have not done anything wrong or immoral. They have been very careful in the discharge of their duties. Simply for a technicality, a technicality which can be removed under the law, will it be wise, proper and just to declare their seats to be vacant and ask for elections? Is it that we are afraid of elections? Rajasthan was referred to. I would like to tell the hon. Member of the Communist party that a Communist candidate was defeated only yesterday in Jodhpur, and was miserably defeated. (*An Hon. Member:* He lost his deposit.) It is not that we are not prepared to face elections. We are prepared to face elections anywhere, in any corner of India. It is not that we are afraid of elections. It is not that we do not want to go before the people. It is not with that idea that we are supporting the Bill. We think, honestly and sincerely, that it is our duty as democrats to protect the sanctity and importance of the ballot box, and that is why we think that it will be just to pass a legislation of this type. Is Parliament to ignore the rights of the chosen representatives of the people? A legislation of the same type was passed over here, in which so many Members of the Parliament were involved. They themselves had incurred a disqualification and for restoring them this august Assembly passed a resolution and said that their membership should be continued. If this House has consideration for its own Members, will it be wise and proper not to have the same consideration for the Members representing their constituencies in different Legislatures in different parts of the country? There is nothing immoral or unjust in this for which we cannot go before the people and face facts. From every point of view this is honest, sincere and proper and that is why I whole-heartedly support the Bill.

Mr. Deputy-Speaker: Pandit K. C. Sharma. Enough has been said and only new points, if there are any, may be advanced.

Pandit K. C. Sharma: So far as the constitutional position is concerned it has been made clear, but again doubts have been expressed and I would deal only very briefly with this aspect of the question, because after the brilliant speech yesterday of Mr. Shah nothing more need be said on the topic. Prof. Mukerjee's argument was that what is good for the Members of Parliament or what is necessary or applicable to the Members of Part A States or what is applicable to the Members of Part B States should necessarily be applicable to Part C States. With regard to this argument I beg to submit that this is a question of law. Certain law is there made with regard to the disqualifications of Members of Parliament and that is contained in articles 101 to 103 of the Constitution. Articles 101 to 103 of the Constitution relate only to the disqualification of Members of Parliament; not to Part A States Members, nor to Part B States Members, much less to Part C States Members. Then there are articles 191 and 192 which relate to disqualifications of Members of Part A States; not to the Members of Parliament, nor to the Members of Part B States or Members of Part C States. Then there is another article, article 238, which relates to Part B States. And Part C States are entirely excluded from this provision. Then comes article 240 which my friend Mr. Basu said is too narrow to allow this sort of legislation, that is the Government of Part C States Act to be passed by the Parliament. That is, according to his view, under article 240(1) Parliament is not authorised to pass a legislation like this, namely the Government for Part C States Act. I may read for the benefit of the House article 240(1)(a):

> "240(1). Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—
>
> (a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State."

11 A.M.

My submission is that if Parliament can pass a law to establish a Legislature, then certainly Parliament must pass a law with regard to the election or disqualification of the Members or their functioning in a certain way. Because the Legislature should act under certain law. That law, in accordance with which the Legislature will work, must be passed by Parliament and here it is, Government of Part C States Act of 1951.

Shri K. K. Basu: That is not under the provision of the Constitution.

Pandit K. C. Sharma: It is under the provision of the Constitution that this law is passed.

Where does the difference lie between this law, namely the Part C States Act, and the articles of the Constitution? The Constitution can be amended only under article 368 by a two-thirds majority while this Act is passed in the usual way, and not by a two-thirds majority as is necessary in the matter of amendment of the Constitution under article 368, but by an ordinary majority. This law has been passed in the usual way, with an ordinary majority, and can be amended without a two-thirds majority as amendment of Constitution under article 368. In regard to the Constitution, there is a sanctity attached to the Constitution, though the Constitution, as Prof. Mukerjee said, can be amended if the situation so demands. The Constitution and Government are meant for the good of the people. They are to work as the people want them to work. If the Constitution is wrong it has to be thrown away. But the Constitution cannot be easily thrown away because the people do not change so easily, so swiftly, so violently as to change the Constitution every day.

[SHRIMATI KHONGMEN *in the Chair*]

This is the secret of the sanctity behind the Constitution; nothing more, nothing less. That is, people want stability and certainty. People want that their expectations should be fulfilled. People want to expect that certain results will follow from certain actions. If every day the Constitution is changed, then there will not remain any stability. Their expectation will fail. Everything would be uncertain. So for that purpose there is a sanctity behind the word of the Constitution, and nothing more. It is not like stone. It must change with the time. But for changing the Constitution under article 368 two-thirds majority is necessary. For any law made under the Constitution a two-thirds majority is not necessary. This is the only difference. This law made by Parliament can be changed at any time and without a two-thirds majority. So much sanctity is not attached to this as to the articles of the Constitution.

Anyhow, a law should not be always, and easily, changed. There

[Pandit K. C. Sharma]

is some respect for the word of law itself. Because law itself gives the expectation of certainty to the people. When you make a law the ordinary man in the street expects that if you commit a crime under the law that law will punish you in such and such a way. You have the liberty because the law is there. The law is to punish a man if he stands in the way of your freedom of action, if anybody infringes your liberty, or if anybody inflicts an injury on you. So, this law, even an ordinary law, must not be violated and there should be some sort of respect for the law. Laws are not made to be changed every day unless there are violent repercussions in the country. So I do not agree with the view that you can change a law every day. If you change, there will be no sanctity behind it and there will be no stability. People always would be uncertain about their affairs but in this respect, whether the law should be changed or should not be changed is a matter of fact. Under the Constitution, anything done under section 17 of the Government of Part C States Act can be amended. There is no doubt about it. Whether it should be amended or not is a question of fact but it can be amended. There is no doubt about it. Therein comes the propriety of this law. My respectful submission is this. The Government of Vindhya Pradesh appointed the District Advisory Councils. It was not the Members who sought membership of these District Advisory Councils. It was the Government that wanted to establish Councils in different districts so that the welfare functions of the State or the Government policy can be easily carried on.

Shri Nambiar: Why should it be done only in Vindhya Pradesh?

Pandit K. C. Sharma: Vindhya Pradesh is a backward State. Even in Uttar Pradesh there were District Committees for grain procurement work and Zamindari abolition Funds collections. These Committees do not pay the Members any allowance. The work taxes a Member very much. I will tell you about my personal experience. At Bullandshahr in 1950 I promised the Leader of the House 4000 mds. of wheat for relief in Bihar. I had to leave my place by six A.M., and reach the place back by ten P.M. In between I had to take my meals in the villages. It takes three hours for a villager to prepare food. He will not give you ordinary food. He will run to the market for vegetables, etc. A Member going to the villages for collecting foodgrains etc. cannot waste three hours for food. He should have food for five people accompanying him. He had to go round the villages and come back. It is taxing. I wondered how could I work but I did work well. Ordinarily you will not expect a man to take food for five people and then go in the morning in villages and come back at ten P.M. It is a very difficult job. In order that work may be carried out smoothly and willingly, the Vindhya Pradesh Government thought it proper to constitute these Councils. These Councils were constituted by the Vindhya Pradesh Government at their own instance for getting their work done and not at the instance of the Members. Government have done this *bona fide*. There was no *mala fide* in this for the reason for a Member to be of the District Advisory Council in the district from which he was elected was simply his constitutionally being there. It was not that only the Congress Members were Members of the Council or the Socialist Members. Every member by virtue of his being elected from the district in which he resides was to be a member of the Advisory Council of that district for the purpose of helping in the Government work. But the Members have committed no fault. Government therefore is in duty bound to do something to get this wrong rectified. There is nothing improper in this. It would have been improper if Members had approached the local Government and said, "You call us for 15 days or one month in a year and you give us daily allowance". Suppose there were no salaries and there was Rs. 15 daily allowance. They would have said, "We are all political workers, we must do political work and to support us you devise certain ways". If at the instance of Members these Advisory Councils had been created, and Rs. five were given in order to allow them to carry on with their work, then this process is certainly the most objectionable. But this is not the fact. The point whether this Bill is proper or improper, whether there is legal propriety or otherwise, depends upon the facts of the case.

So far as the legal position is concerned, there is no doubt that this Parliament is competent to amend this Act. This Act is good in law. There is nothing bad about it. In taking up this legislation, whether there is propriety or not, it depends upon the facts. In this case it was the Government that established these Advisory Councils at their own instance. It was not at the instance of the Members that these Councils were institut-

ed. Therefore Government was bound to help the Members to get out of the difficulty.

There is another argument that when so many nominations have been rejected, why not have a law in every case? In every case, when the nomination was rejected, Government was not a party to it. The Government has not done the wrong. A law is passed. A certain Member does not come within the purview of the law. His nomination is rejected.

Shri Nambiar: The candidate also is responsible.

Pandit K. C. Sharma: But in this case Government was responsible. Then the question arises why not a ballot box? I respect the ballot box. I cent. per cent. agree with my friend Pandit Balkrishna Sharma that when the ballot box fails, the bullet comes in. This is true. I am one of those who not only want that the ballot box should be respected but who will go further and say that no man should be above the ballot box. Conditions must be created so that a man can be opposed whoever he is. To create conditions when you make a god of a man is to create conditions when a man would not be able to oppose him and then even the bullet comes. Therefore I want dignity to the common man, dignity to the common man means not to deify persons. I have always fought against high epithets and high sounding additions to names of men in power. I want an ordinary man to remain an ordinary man and work as an ordinary man. When you raise people sky high, you deify the man to the disadvantage of the common man. So I have always fought against euologising any man raising him too high however great he may be, however great functions he may perform, however admirable and remarkable his services may be. I love the common man's right and I stand by it. But, the common man's right and the ballot box do not mean that every day you are to go to the ballot box. There is such a thing as sense of proportion—practical wisdom. Suppose elections have taken place a month before and something technical has happened. Do you mean to say that a month after, you must go to the ballot box? The villager has to plough his lands and people have to earn their living.

Mr. Chairman: The hon. Member may deal with new points.

Pandit K. C. Sharma: Yes, Madam. The ballot box has to be respected. But, in this case the question of the ballot box does not arise at all.

Then comes the question of article 14 of the Constitution which Shrimati Sucheta Kripalani raised. There is no question of the application or infringement of article 14. Article 14 says:

> "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Now, I put this straight question? There are college classes and a certain fee is charged. For the post-graduate courses, there are enhanced fees. For research students there are more fees. For the intermediate classes, there are less fees. Does Mrs. Kripalani mean to say that simply because a first year student in the college has to pay Rs. six, and an M.A. student has to pay Rs. 20, there is infringement of article 14 of the Constitution? The question is: a person placed in the same conditions should be equally treated. These twelve persons are placed under certain disabilities. If twenty more are placed under these very difficulties, the law would be the same. Equal protection of law does not mean that because a man is disabled and Rs. 200 were spent in the hospital in curing the disability of the person, therefore, Rs. 200 must be spent on Babu Ramnarayan Singh. Babu Ramnarayan Singh is sitting in Parliament. The man who broke his legs was in the hospital. Because Rs. 200 were spent on an in-patient in the hospital who was a citizen of India, is it any reason why Rs. 200 should be spent on Babu Ramnarayan Singh, who is equally a good citizen of India, though he is hale and hearty?

Shri Nambiar: Why do you drag in this old man?

Pandit K. C. Sharma: Mrs. Kripalani's argument with regard to the application or infringement of article 14 has no meaning at all. My respectful submission is that this Bill is cent. per cent. legal as the Leader of the House has said. It is proper and there is no constitutional impropriety with regard to this Bill. I hope hon. Members irrespective of party considerations would support the Bill.

श्री ए० एन० विद्यालंकार (जालन्धर) :

सभानेत्री महोदया, मुझे इस बात पर बहुत खुशी है कि इस हाउस में इस बात की बहुत चिन्ता की जा रही है कि हम जम्हूरियत की यानी प्रजातन्त्र की ऐसी परम्पराएं क़ायम करें जो आयन्दा के लिए बहुत मुनासिब हों और जो डिमाक्रेसी के अधिकारों की रक्षा कर

[श्री ए० एन० विद्यालंकार]

सकें। लेकिन मैं यह अनुभव करता हूं कि इस मामले पर विचार करते हुए कुछ सदस्यों ने या तो बिल्कुल ही एक बारीक क़ानूनी पहलू ले लिया है और एक "लीगैलिस्टिक व्यू" लेने की कोशिश की है या कुछ दूसरे सदस्यों ने बिल्कुल ही एक "आइडियालिस्टिक व्यू" लिया है। मैं समझता हूं कि जैसे मेरे मित्र श्री बालकृष्ण शर्मा जी ने कहा था, इस मामले पर हमें साधारण बुद्धि से विचार करना चाहिए। क़ानून हमेशा व्यक्ति के अधिकारों पर साधारण बुद्धि के साथ विचार करता है। यदि हम बहुत ही ज्यादा क़ानूनी बारीकी में चले जायें या बहुत ही आइडियालिस्टिक व्यू ले लें तो हम कार्यक्षमता और व्यवहार के पहलू को छोड़ देंगे। इस मामले में यदि हम साधारण बुद्धि से विचार करें तो मामला बिल्कुल सीधा सादा है और कोई लम्बा चौड़ा विचार करने की आवश्यकता नहीं है। यहां पर जितना ज्यादा इस में बहुत गहराई के साथ क़ानूनी बारीकियों में जाने की कोशिश की गयी है जिसे कहा जाता है "क़ानून के बाल की खाल उतारना" तो यहां पर इस तरह से बाल की खाल उतारने की कोशिश की जा रही है। कुछ सदस्यों की तरफ से जो यह बाल की खाल उतारने की कोशिश की गई है मैं समझता हूं कि इसने हमारे तमाम दृष्टिकोण को 'कनफ्यूज' कर दिया है और हम इस पर ठीक तरीक़े से विचार नहीं कर सकते। हमारे विधान में दो बातों को बिल्कुल साफ़ रखा गया है। मेरे कुछ मित्रों ने सैक्शन १०२ और सैक्शन १०३ का हवाला दिया। सैक्शन १०२ में पार्लियामेंट के अधिकार दिये गये हैं और सैक्शन १०३ में प्रैसीडेंट और इलैक्शन कमीशन के फंक्शन्स बताए गए हैं। इन दोनों को बिल्कुल मिला जुला कर कुछ सदस्यों ने इसको बिल्कुल कनफ्यूज कर दिया है।

सैक्शन १०२ में पार्लियामेंट को यह अधिकार है कि वह फ़ैसला करे कि डिसक्वालिफिकेशन क्या है। यह फ़ैसला करना कि डिसक्वालिफ़िकेशन क्या है, इस बात का अधिकार न प्रैसीडेंट को है और न इलैक्शन कमीशन को ही इस बात का अधिकार है। यह अधिकार सिर्फ पार्लियामेंट को है जो सैक्शन १०२ में दिया गया है। सैक्शन १०३ में इस बात की चर्चा की गयी है कि अगर यह सवाल उठे कि किसी मेम्बर ने डिसक्वालिफिकेशन इनकर की है या नहीं तो इस 'फैक्ट' का फैसला करना कि आया किसी मेम्बर ने डिसक्वालिफिकेशन इनकर की है या नहीं, इसका अधिकार प्रैसीडेंट को है। और इस मामले में प्रैसीडेंट इलैक्शन कमीशन से विचार करे। इसके शब्द ये हैं:

"If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause....etc."

तो यह फैक्ट कि आया जो तारीफ़ डिसक्वालिफिकेशन की पार्लियामेंट ने की है उस तारीफ़ के मुताबिक किसी मेम्बर ने डिसक्वालिफिकेशन इनकर की है या नहीं, इसका फ़ैसला सिर्फ प्रैसीडेंट को करना है और वह इलैक्शन कमीशन की सलाह से करना है। और इलैक्शन कमीशन जो भी सलाह मशविरा दे, उसको प्रैसीडेंट को मानना है।

इसलिए यह दोनों बातें अलग अलग हैं। डिसक्वालिफिकेशन क्या चीज़ है, क्या काम या कौन जगह और कौन से पद को लेना डिसक्वालिफिकेशन इनकर करता है, इस बात का फ़ैसला पार्लियामेंट को करना है। और आया उस फ़ैसले के मुताबिक वाक़ई कोई मेम्बर डिसक्वालिफिकेशन का मुतंकिब हुआ है या नहीं इसका फ़ैसला इलैक्शन

कमीशन को करना है। और इलैक्शन कमीशन जो कुछ फ़ैसला दे उसके मुताबिक प्रैसीडेंट को विचार करना है। इस मामले में मैं समझता हूं कि जो रिपोर्ट हमें बांटी गयी है उसके मुताबिक इलैक्शन कमीशन ने इस बात के ऊपर काफी चर्चा की है कि जो इस ऐडवाइज़री काउन्सिल के मेम्बर बने थे, आया ऐडवाइज़री काउन्सिल की मैम्बरी डिसक्वालिफिकेशन के अन्दर आती है या नहीं। मैं समझता हूं कि इस तरह डिसक्वालिफिकेशन की तारीफ़ पर बहस करके इलैक्शन कमीशन ने अपनी हद से तजावुज़ किया है। आप देखेंगे कि इस कांस्टीट्यशन के मुताबिक दरअस्ल डिसक्वालिफिकेशन का फ़ैसला करना पार्लियामेंट के अधिकार में है। लेकिन इलैक्शन कमीशन अपने उस अधिकार के बाहर चला गया है, आगे बढ़ गया है। उन्होंने इस बात को तय करना शरू किया है कि जो १५ मैम्बर बने वह डिसक्वालिफिकेशन इनकर करते थे या नहीं। पहले उन्होंने १५ मेम्बर चुने, फिर तीन को बरी कर दिया यह कहकर कि वे रैजीडेंट नहीं थे, बाहर से आये थे और उन्होंने बाहर से आने में खर्च वगैरह किया था, इसलिए उन के ऊपर डिसक्वालिफिकेशन आयद नहीं होता। लेकिन १२ मेम्बरों पर डिसक्वालिफिकेशन आयद होता है। मैं फिर कहना चाहता हूं कि इस बात का फ़ैसला करना और इस पर विचार करना इलैक्शन कमीशन के अधिकार में नहीं था, उनको इस बात का फ़ैसला करने का अधिकार नहीं है कि कोई विशेष 'पद' डिसक्वालिफिकेशन में आता है या नहीं। यह फैसला करना पार्लियामेंट का अधिकार है, यह इलैक्शन कमीशन का नहीं है। पार्लियामेंट डिसक्वालिफिकेशन की तारीफ़ करे और तारीफ़ में बाक़ई कोई मेम्बर आता है या नहीं, इस फैक्ट पर विचार करने का काम इलैक्शन कमीशन का है। किसी मेम्बर ने उस पद को ग्रहण किया है या नहीं, एक मेम्बर कहता है कि मैंने इसको ग्रहण नहीं किया, या कोई कहे कि मैंने इसको ग्रहण करने की लिखित स्वीकृति नहीं दी, या कोई मेम्बर कहे कि मुझको इस के ग्रहण करने के विषय में मालूम नहीं था, इस तरह की बातें हों तो उन पर इलैक्शन कमीशन को विचार करना है कि आया अमुक सदस्य ने वस्तुतः पद ग्रहण किया है अथवा नहीं।

अगर हम इस पोजीशन को अच्छी तरह से समझ लें और दोनों चीज़ों को हम जुदा जुदा कर दें तो मैं समझता हूं कि इस समय "डिसक्वालिफ़िकेशन" की जो व्याख्या की जाती है उसके अनुसार विध्या असेम्बली के सब के सब मेम्बर्स जोकि इस कमेटी के सदस्य बने थे, मेम्बर रहने के अयोग्य हो जाते हैं। इलैक्शन कमीशन को इस बात का अधिकार नहीं था कि उसमें किसी के लिए "एक्सेप्शन" करे एलेक्शन कमीशन को इस बात का अधिकार नहीं है कि वह इस बात का फ़ैसला करे कि क्या २ चीज़ डिसक्वालीफ़िकेशन के अन्दर आती है। मैं समझता हूं कि पार्लियामेंट के लिए यह लाज़िम हो जाता है कि वह इस मामले के बीच में आये और यह चीज़ साफ़ करे कि क्या चीज़ डिस्क्वालीफ़िकेशन इनकर करती है और क्या नहीं करती है। मैं इसी डिस्क्वालीफ़िकेशन की बात लेता हूं। जैसे सुप्रीम कोर्ट, या हाई कोर्ट किसी बात का फ़ैसला करता है, और वह किसी चीज़ की तारीफ़ करता है, डेफ़नीशन और इंटरप्रेटेशन देता है, तो उसको लेजिस्लेचर और हाउस देखता है कि आया कोर्ट की वह तारीफ़ और इटरप्रेटेशन उसकी मंशा के मुताबिक है या नहीं, अगर लेजिस्लेचर यह देखता है कि वह तारीफ़ जोकि कोर्ट के अन्दर की जा रही है, इलैक्शन कमीशन म की जा रही है या और किसी जगह पर की जा रही है, वह तारीफ़ उस हाउस की मर्ज़ी के मुताबिक

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नहीं है, तो हाउस को इस बात का पूरा अख्तियार है कि वह उस तारीफ़ को साफ़ करे और उसके मुताल्लिक जो नतायज हुए हैं, उनके मुताल्लिक भी फ़ैसला करे और उससे जो भी नतायज निकले हैं, सही हों या बुरे, उनको ठीक करे और नेसेसरी एमेंडमेंट लाकर अपनी मंशा मुताबिक उस चीज़ की तारीफ़ और इंटरप्रेटेशन कराये । इसलिए मौजूदा मामले में मैं समझता हूं कि पार्लियामेंट को न सिर्फ हक है, बल्कि पार्लियामेंट का फ़र्ज है कि उस मामले को साफ़ करे । मुझे इस बात का ज़रूर अफ़सोस है कि यह मामला आज इतनी देर से पेश हुआ है, अगर यह बिल इस पार्लियामेंट के आरम्भ में ही पेश किया जाता, प्रैसीडेंट साहब के आर्डर देने से पहले ही पेश किया जाता, तो यह उलझन हमारे दिमागों में न पैदा होती जोकि इस वक्त पैदा हो रही है । लेकिन मैं कहना चाहता हूं कि आखिर प्रैसीडेंट के आर्डर की फ़ाइनैल्टि तो वहीं तक है जहां तक प्रैसीडेंट और इलैक्शन कमीशन को कानून जाने की इजाज़त देता है, लेकिन अगर हम पार्लियामेंट के अधिकारों पर जोकि कांस्टीटयूशन ने दिये हैं, कोई पाबन्दी या रोक लगा दें, तो यह तो कांस्टीटयूशन और क़ानून का गलत इंटरप्रेटेशन होगा, अगर हम फ़ाइनैल्टि की तारीफ़ इस तरीक़े से करें कि जिस चीज़ के ऊपर रोक लगाने का अधिकार प्रेसीडेंट को नहीं है, उसके ऊपर भी प्रैसीडेंट की फ़ाइनैल्टि रोक लगा दे, तो मैं समझता हूं कि यह क़ानून का गलत इंटरप्रेटेशन होगा । प्रैसीडेंट की फ़ाइनैल्टि तो यहीं तक है कि इलैक्शन कमीशन ने यह तय किया कि जो लैजिस्लेचर के मेम्बर एडवाइज़री कौंसिल के भी मेम्बरस थे, उन्होंने लेजिस्लेचर की मेम्बरी की ।] डिस्क्वालीफ़िकेशन इनकर कर ली, यहां तक तो ठीक है, लेकिन उसके बाद पार्लियामेंट इस बात का फ़ैसला भी न कर सके कि आया इलैक्शन कमीशन का यह फ़ैसला डिस्क्वालीफ़िकेशन के बारे में हमारी मंशा के मुताबिक हुआ या नहीं हुआ, पार्लियामेंट के इस अधिकार के ऊपर कोई पाबन्दी अथवा रोक लगाना मेरे ख्याल में उचित व मुनासिब नहीं है, दफ़ा १०३ की कभी ऐसी मंशा नहीं थी और अगर ऐसी मंशा होती तो मैं समझता हूं कि दफा १०२ के अन्दर पार्लियामेंट को जो अधिकार मिला है वह खत्म हो जायगा । मैं अर्ज करना चाहता हूं कि दरअस्ल जो चीज़ इस वक्त हमारे सामने है, न सिर्फ ऐसे मामलों में बल्कि और बहुत से मामलों के लिए यह चीज़ सामने आने वाली है, यह डिस्क्वालीफ़िकेशन की तारीफ़ ऐसी लम्बी चौड़ी है और दरअस्ल कई मामलों में हमारा क़ानून इतना वेग है और इतना धुंधला है कि पार्लियामेंट को इस बात को बिल्कुल पार्टी क्वेश्चन से अलहिदा होकर सारे मसले पर विचार करना है, हम यहां पर सोच रहे हैं कि उन लोगों को जिनको इलैक्शन कमीशन ने हमारी मंशा मुआफ़िक सही इंटरप्रेटेशन न करके डिस्क्वालीफ़ाई कर दिया है, उनकी डिस्क्वालीफ़िकेशन हम किस तरह से हटायें, क्योंकि इस तरह तो डेमोक्रेसी खतरे में पड़ जायगी ।

डिस्क्वालीफ़िकेशन बड़ी सीरियस चीज़ है । किसी आदमी से यह अधिकार छीन लेना और उसको डिस्क्वालीफ़ाई कर देना, इसकी सीरियसनेस को शायद हमने सोचा नहीं है, उन बारह मेम्बरों को डिस्क्वालीफ़ाई करके हम उनको एक अधिकार से वंचित करते हैं और ऐसे वक्त में वंचित करते हैं जब उनका दरअस्ल कोई क़सूर नहीं और उनके वाजिब अधिकार से वंचित करते समय हमारी कांसेशनेस ज़रा भी प्रिक नहीं करती कि हमने ऐसे लोगों को उनके अधिकार से वंचित कर दिया है जिनका वास्तव में कोई क़सूर नहीं है और मैं समझता हूं कि उस रोज़

को रेक्टीफ़ाई करने के लिए पार्लियामेंट का नेसेसरी लेजिस्लेशन पास करना बहुत जरूरी और मुनासिब है और पार्लियामेंट को इस बात का फ़ैसला करना है कि आया 'आफ़िस आफ़ प्राफ़िट' से क्या मुराद है और मैं कहना चाहता हूं कि यह केवल विन्ध्य प्रदेश के उन बारह मेम्बरों का ही मामला नहीं है, बल्कि बहुत सारे सूबे हैं जहां ऐडवाइज़री कौंसिलें बनी हुई हैं और उन कमेटीज़ की मीटिंग्स में आने के लिए वहां की स्टेट गवर्नमेंट्स रेल का किराया आदि देती है, फ़र्ज़ कीजिए कि किसी स्टेट के मेम्बरों को लेकर कोई स्टेट गवर्नमेंट कोई कमेटी बनाती है, वहां की स्टेट का जो लेजिस्लेचर है वह यह पास कर देता कि: This is not an office of profit. दफ़ा १९१ के मुताबिक यह फ़ैसला करते हैं कि यह जो पद है यह आफ़िस आफ़ प्राफ़िट नहीं है और स्टेट लेजिस्लेचर्स के जो मेम्बर्स हैं वह डिस्क्वालीफ़िकेशन्स से मुक्त हो जाते हैं, लेकिन अगर किसी स्टेट ने किसी पार्लियामेंट के मेम्बर को भी उस कमेटी में रख दिया, पार्लियामेंट के मेम्बर नें यह सोचा कि दफ़ा १९१ के मुताबिक स्टेट के लेजिस्लेचर ने तो यह डिक्लेयर कर दिया कि यह आफ़िस आफ़ प्राफिट नहीं है और इसलिए वह वहां का भी मेम्बर बन सकता है, लेकिन क़ानूनन् देखा जाय तो पार्लियामेंट का मेम्बर डिस्क्वालीफ़ाई हो जाता है क्योंकि पार्लियामेंट ने तो यह डिक्लेयर नहीं किया कि वह "आफ़िस आफ़ प्राफ़िट" नहीं है, मैं इन खामियों की तरफ़ आपका ध्यान दिलाना चाहता हूं और विन्ध्य प्रदेश के मेम्बरों की डिस्क्वालीफ़िकेशन का ही मामला नहीं है, बल्कि मैं जानता हूं कि कई पार्लियामेंट के मेम्बरों ने और स्टेट लेजिसलेचर्स के मेम्बर्स ने ऐसी कमेटियों में आने से इन्कार कर दिया है, क्योंकि इस सम्बन्ध में जुदा २ इन्टरप्रेटेशन्स दिये जाते हैं और उस कानून की अलग अलग व्याख्यायें की जा रही हैं, इसलिए मैं समझता हूं कि पार्लियामेंट का फ़र्ज है कि वह यह चीज़ साफ़ करे कि आफ़िस आफ़ प्राफ़िट क्या है, उसको साफ़ तौर से डिफ़ाइन करे और जहां पर गलत इंटरप्रेटेशन करने के कारण मेम्बरों को डिसक्वालीफ़ाई किया गया है और उनको उनके उचित अधिकार से वंचित किया गया है, उनको उनका अधिकार वापिस दिलवाया जाय और उनकी डिस्क्वालीफ़िकेशन हटाई जाय, और हमारा काम सिर्फ विन्ध्य प्रदेश के बारह मेम्बरों की डिस्क्वालीफ़िकेशन हटा कर ही खत्म नहीं हो जाता और मुझे तो अफ़सोस के साथ यह तस्लीम करना पड़ता है कि यह बिल काफी दूर तक नहीं जाता, स्टेट्स के और बहुत से मामले हैं, ऐसी कमेटियां हैं जिनके अन्दर बिल्कुल कोई प्राफ़िट मोटिव नहीं है और इस मौजूदा क़ानून के अन्दर, इस वेग डेफीनीशन के अन्दर वह आफ़िस आफ़ प्राफ़िट समझा जा सकता है और उस सम्बन्ध में हमारा क़ानून वेग होने और साफ न होने के कारण कोई भी कोर्ट उसे आफ़िस आफ़ प्राफ़िट करार दे सकता है, इलेक्शन कमीशन भी उसे आफिस आफ़ प्राफ़िट मान सकता है, इसलिए आज यह बहुत जरूरी हो गया है कि पार्लियामेंट को इस आफिस आफ़ प्राफ़िट की डेफीनीशन को बिल्कुल साफ़ कर देना चाहिए ताकि यह जो बिना उनके कसूर के वह डिस्क्वालीफ़िकेशन इनकर कर लेते हैं, वह न हो और उनको उनके अधिकार से वंचित न किया जा सके। मैं इस सम्बन्ध में अपने माननीय होम मिनिस्टर साहब और ला मिनिस्टर साहब से प्रार्थना करूंगा कि वह जल्द से जल्द क़ानून को साफ़ और वाज़े कर दें ताकि यह दिक्कत और सवाल जो कई सूबों में और किन्हीं मेम्बरों के सम्बन्ध में उठ सकता है और उठने वाला है, उसमें कोई दिक्कत न हो यह क़ानून बिल्कुल साफ़ और वाज़े हो जाये। जिससे बिना कसूर किसी को उसके

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अधिकार से वंचित न किया जाये । इन अलफ़ाज़ के साथ में इस बिल का समर्थन करता हूं ।

Kumari Annie Mascarene (Trivandrum): The Bill presented before us is justified by the Attorney General as a legal measure within the supreme authority of Parliament to make a Constitution, amend the Constitution, to make and unmake Constitutions and institutions by virtue of the supreme authority of Parliament. I agree with it. I go further and agree with D'lolme in saying that Parliament has supreme authority to do everything except make a man a woman and a woman a man.

Shri V. G. Deshpande (Guna): And make woman a Chairman!

Kumari Annie Mascarene: This Bill falls within the legal limits of the sovereign authority of Parliament, within the letter of the law, like the pound of flesh without a drop of blood! This is not the first time in the history of Legislatures that Members have become disqualified. What surprises me here is, why should this Government go out of the way to resort to an extraordinary remedy of Jenkins rather than resort to the ordinary remedy generally followed under such conditions. Even granting that Parliament has power to make and unmake, this Bill in particular has violated the fundamental principle of legislating, namely, that Parliament legislates on general things for the nation and not on cases of exception.

The Attorney General pointed out to us Mr. Jenkins' case. I wish to ask him whether the facts of the case itself have thoroughly justified such a step. In the Jenkins' case itself the Bill has been introduced by the Financial Secretary, Capt. Crookshank. He says while introducing the Bill:

> "The moral of the whole thing, if there is a moral, is that if any member of Parliament is approached to take any kind of appointment....etc."

He himself suspects the moral of the Bill. And the next speaker, Mr. Maxton, Member for Glasgow, Bridgeton, says:

> "I do not want to oppose this measure, but I wish to enter a mild protest against the Government finding themselves under the necessity of compelling this House to pass a measure of this description over such a trivial matter."

I am quoting from the Jenkins' case itself. The gentleman continues:

> "It would not have been necessary for them to come forward with this very clumsy process. It seems preposterous, when we excuse members of this House for holding offices of profit with salaries of £3,000 a year attached to them, that it should be necessary to introduce a Bill to exonerate a member for accepting an office with a fee of £2-10s., which the member in question never received."

He goes further:

> "It seems to me that it is just silly"

and says:

> "I hope the right hon'ble and gallant gentlemen will convey to the proper quarters the representations that I have made and ask the Government to provide facilities for the Report of the Select Committee to be discussed on the floor of the House, and the necessary legislation passed to make this kind of thing quite unnecessary".

From the case itself it is clear that this was a doubtful case which violated the moral principles of Parliament. I agree with the Attorney General with regard to the legal rights. The question here is a conflict between the legal and moral powers of Parliament, a conflict between the legal and the political sovereignty of Parliament, a conflict between legislation for exceptional cases and legislation for general cases. We, as representatives of the nation, have got to set up a precedent for generations to follow. And analysing the very powers of this House, I think that we are undoing our past actions. That is, the Election Commission and the President are creatures of this House. I am not enamoured by any personal attachment either to the President or to the Election Commission. They are creatures of this House. We have constituted them on the clear constitutional understanding that we respect their activities in this field. By undoing, by ignoring, by legislating against the Election Commission, we are undoing our own powers and this is against the legal authority of Parliament and a restriction on the sovereign power.

Then coming to the precedent that we are establishing, I want to ask them: are you so power-drunk as to create a precedent of this nature with very serious political consequences resulting from an indiscreet legislation? I understand that they are omnipotent. They have got a brute majority. They can carry any law today as they dominate the nation like the stars that shoot along the sky burning brightest ere they fall from high. This is a violation of the political sovereignty of the People—I refer to the legal and political sovereignty of Parliament. If Parliament has legal powers to legislate, sovereign powers to legislate, there is an ultimate authority over and above the Parliament which is a restriction on Parliament, called the electorate—which is the political sovereign of Parliament. Members have to go back again after five years to the political sovereign. To quote Dicey, he refers to legislation in Switzerland where every legislation is referred to the male members of the country for approval or disapproval.

Shri A. M. Thomas (Ernakulam): Why are females excluded?

Kumari Annie Mascarene: In those days 'men' included 'women', unlike these days women including men.

So, that itself is an example that the political sovereignty has to be respected. In this legislation, granting that there is complete legal sovereignty, we must remember the restrictions on the sovereign powers of Parliament. And the great Dicey had often laid down political sovereignty and other international laws as restrictions on this. Therefore, on these grounds, this law is not proper for this Parliament to pass.

Then, coming back to democracy, I do not want to dilate upon the principles of democracy. But I wish to point out one fact, that democracy has often disappeared from the face of the earth by corruption and selfishness of parties and cliques. We are running such a Government, a Government of the people, by the people and the opposite party, is running popular self-government with all the importance on the 'self' and nothing on the 'government'.

To inspire the people with the fundamental principles of democracy, it is not always common to resort to the ballot box, to Legislatures and to the Cabinet Ministers who are themselves indispensable instruments in democracy. But, there is something more sacred than all that. You can invent the most powerful of locomotives, but they will not move an inch unless you put steam into it. Similarly, you can have the best of democracy, but what is required is not only intellect and energy but something more sacred than that, character, integrity and respect for moral principles. These alone will carry the day and unless and until we respect the moral principles of democracy, we are willing to sacrifice for the moral principles and subordinate party principles for the nation, unless and until this is done, democracy is not going to survive for long. Because the apostles of democracy and democratic institutions, who have been preaching to the people justice, equality and fraternity, who have been delivering speeches telling the people that the ballot box is the ultimate sovereign power, fight shy today to resort to the ballot box for very obvious reasons, for the bitter experience they have had in the by-elections.

Shri S. V. Ramaswamy (Salem): The Bill is a simple one and yet the amount of confused thinking about this is amazing. The extraordinary situation that was created by the interpretation put by the Election Commission on the term 'office of profit' and extending it beyond what might perhaps be considered to be reasonable has created a situation which has necessitated this Bill. Now, all this confusion has arisen from the simple fact that section 17 of the Government of Part C States Act has referred to article 102 of the Constitution. If only in that single section there had not been any reference to the Constitution, there would not have been all this confusion and this confusion seems to persist even though the Attorney General made it very clear that this is a Bill in pursuance of article 240 of the Constitution and it does not affect the Constitution as such.

Now, if you look into article 240, it is very clear that the Government of Part C States Act itself was passed in pursuance of that article and the present Bill is also in pursuance of that article. We have lost sight of that and because there is reference to disqualification as mentioned in article 102 of the Constitution, hon. Members have come to the wrong conclusion that disqualification comes under articles 101, 102 and 103 and that is the reason why they have been repeatedly referring to those articles which have no bearing on this question at all. Instead of a reference to article 102 of the Constitution in section 17 of the Part C States Act, if they had incorporated the disqualifications which are mentioned in that article, then there was no need to refer to articles

[Shri S. V. Ramaswamy]

101, 102 and 103 of the Constitution at all. The consequence is this. Section 16 is analogous to article 101; sections 17 to 102 and section 18 analogous to article 104. This is an Act independent by itself and it derives its authority from an enactment of this Parliament in pursuance of article 240. Now, it would have been a different matter if this disqualification is under the Constitution, article 101 or article 102. This is not a disqualification under that. That is the crux of the matter. It is because the hon. Members opposite and some on this side have not realised this point, that there is so much of confused thinking. Taken by itself, therefore, if there has been any disqualification under section 17 of the Part C States Act, then, by virtue of the powers conferred on this Parliament by article 240 of the Constitution, this Parliament has got the power to remove the disqualification under article 240. Therefore, this Bill need not come under article 368 of the Constitution as an amendment of the Constitution. We are only amending the Act and not amending the Constitution and if that is so all this question about the unconstitutionality becomes irrelevant to the matter.

But, there is one difficulty and I am not able to be satisfied even after reading through what the Attorney General had to say and the difficulty that arises is this. The Attorney General has been pleased to refer us to four cases, in 32 Appeal Cases. 260, the Ceylon case and the Jenkins Case, and the Coatbridge and Springburn Act and the other Act where the two Members of Parliament were appointed on the General Medical Council, referred to at page 213 of May's Parliamentary Practice. Now, in all these cases, if you probe deep into it, you will see that those seats were not declared vacant. That is the difference between this case and those. The crux of the matter is that. Is there any decision which the Attorney General has been able to cite where the seat had been declared vacated and an unseated person has been put back into his seat?

An Hon. Member: Exactly that.

Shri S. V. Ramaswamy: I am afraid there is no direct decision or precedent. It would be wrong to say there is and I speak subject to correction. I hope the hon. Home Minister will be able to find out if there is any precedent where the seat has been declared vacant. Going through all the connected decisions, I find that the Members continue to be Members even though they were suffering under disqualification. Their seats had not been declared vacant.

Now, in the Ceylon case the Member continued to be a Member though there was a prosecution launched against him and in order to circumvent that prosecution an Order in Council was passed indemnifying the Member and saving him from the prosecution. In the Jenkins case also that hon. Member continued to be a Member and when the Select Committee reported that he was suffering from a disqualification, then an Act was passed indemnifying him. Even so, in the Coatbridge and Springburn case when it was discovered that the Members had derived a small profit and there was a fear that they might have to vacate on the report of the Select Committee of the House of Commons, an Act was rushed through Parliament indemnifying them. Even so in the case where two Members of Parliament were nominated to the General Medical Council.

Now, my hon. friend Mr. C. C. Shah, yesterday in his very forceful speech, referred to Act 49 of 1951. He said that retrospective legislation is nothing new and he went on to explain by saying that if the Parliament can legislate prospectively it can also legislate retrospectively and no lawyer can challenge it. I am sorry I beg to differ from him because article 20 of the Constitution imposes a limitation upon article 245 which defines the powers of Parliament. So, there is that limitation. Apart from that, if you will refer to the Prevention of Disqualifications Act of 1951, you will find that the seats of all those Members were not declared vacant. They continued to be Members, and retrospective effect was given as if there was no disqualification from 26th January, 1950 even though the Act was passed in October, 1951. So, even a reference to that Act does not help us. To be frank, I have to admit, so far as I have studied, that there is no precedent in any Parliament of the world where this situation has arisen; where a seat is declared vacant; and where we seek to put back those persons. That is the crux of the matter, and it is in regard to it that we have to satisfy ourselves.

Shri A. M. Thomas: Does not the seat become automatically vacant by the incurring of the disqualification?

Shri S. V. Ramaswamy: No. That is, again, the mistake that my hon. friend, Mr. C. C. Shah, made. This

disqualification has been incurred in April, 1952, but the seat becomes vacant only on the acceptance of the recommendation of the Election Commission.

Dr. Katju: No, no.

Shri A. M. Thomas: No, no.

Shri S. V. Ramaswamy: I will prove it. Anyhow, that is my stand. You are entitled to differ from me. Though these Members continued up to April 2nd, my submission is that even the date of passing of the order by the President is not enough. It is the date of publication in the Gazette that really matters. Till then, they are Members.

Shri C. C. Shah (Gohilwad-Sorath): You are mistaken.

Shri S. V. Ramaswamy: You are entitled to hold a different opinion. According to me, the seats became vacant only on the date on which the order was published in the Gazette. So, there is no object in referring to Act XLIX.

Now, the other point is whether there has been any motive. My hon. friend Mr. Anthony went to the extent of saying that there was a motive behind it. He even went to the extent of saying that the Attorney General was saying that the Members of this Part C State Legislature were placed in a higher position than Members of Parliament. My humble submission is that he is mistaken. Article 240 clearly says that Parliament has powers to legislate with regard to Part C States, and even those powers are further amplified by article 246(4). Article 240 clearly says that Parliament can assume control over Part C States presumably till they are brought to the level of Part A and Part B States. The powers of Parliament to legislate and control in respect of Part C States are unambiguous. So, the Members of the Vindhya Pradesh Legislative Assembly are definitely not in a higher position.

One other point that I wish to submit is that this legislation is clearly within the purview of article 240, for what we are seeking to do is to continue the Legislature. Read the language of article 240:

> "Parliament may by law create...."

It is here that Mr. K. K. Basu made a mistake. He merely read out the words "may by law create", but the words following are:

> "*or continue* for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—
>
> (a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State...."

What we are seeking to do in this Bill is merely *to continue* this body. It is no good arguing that it is only a part of the body. I submit that if Parliament has powers to continue this legislative body, it has also powers to legislate, so that these twelve Members who have been inadvertently disqualified may continue to be Members of that body. We are doing nothing more than that. We are covered by the words "*or continue*" and we are merely saying that these Members shall continue. Therefore, my humble submission is that we are perfectly constitutional in enacting this measure.

The other question was raised by Pandit Balkrishna Sharma, *viz.*, that the condonation can be done only by the Election Commission and not by the Parliament. I beg to differ. The Election Commission has been created by this Parliament passing an Act. It is a subordinate body. It is we who have the power. Tomorrow, we may bring an amendment to the Constitution and do away with the Election Commission. We are certainly a superior body and we can control, whereas the Election Commission is only a subordinate body and the power is not entirely vested in the Election Commission.

Finally, it has been repeatedly said by hon. Members Opposite that democracy is in danger; that we have taken away the inherent right from the electorate to exercise the vote. Now, that is not true. As a matter of fact, this measure is meant to protect democracy. Even if you take the House of Commons, you will find that some 200 and odd Acts have been passed indemnifying persons who had inadvertently disqualified themselves. Does that mean that the House of Commons passed those Acts in derogation of the fundamental principles of democracy? It is not so. Mistakes do happen. Accidents do occur. There is inadvertence. There are *bona fide* mistakes. That does not mean that you should straightaway rush to the electorate and order a fresh election. It is to correct these errors and mistakes in administration that we have got the power to legislate retro-

[Shri S. V. Ramaswamy]

spectively. As a matter of fact, in this case,—as has been pointed out by my hon. friend Mr. Deshpande—we are seeking to protect democracy, because only recently the electorate declared its verdict and elected these twelve men. There is not point in troubling the electorate once again by asking it to elect the same set or some other set of persons, because the electorate has already declared its verdict. We are seeking to protect these Members because they have inadvertently and in a *bona fide* manner made themselves subject to certain disqualifications. It is not of their own making. The mistake was *bona fide*. It had not been thought of. Is that a reason why their seats should be vacated and fresh elections ordered? No. It is here that Parliament has to step in and see that there is a proper safeguard for democracy, and the electorate is not put to unnecessary difficulties.

It has also been repeatedly urged that the order of the President is final, and there has been a slur on the President. Reading article 103, I see nothing which can make me say that the President's order is absolutely final and that Parliament cannot sit over it. The President has to accept the opinion of the Election Commission, and that order shall be final. That does not in any way restrict the powers of the Parliament under article 245. This article should not be read to be subject to article 104. That would be wrong and unconstitutional. Article 245 confers powers upon the Parliament and article 103 is not to limit that power. Once the order has been passed, the powers of the Parliament are not taken away. It is in exercise of the powers of Parliament under articles 240 and 245 that we are going to pass this Bill. There is no slur on the President, and we are not trying to get over any finality. On the other hand, we are seeking to protect those Members who have unwittingly been disqualified, if I may be permitted to say so, by a wrong interpretation and extension of the meaning of the term "office of profit".

One more point and I shall have done. It appears to me that had this Bill been brought immediately after the Election Commission submitted its opinion to the President, it would have been passed within ten minutes, because the question of the vacation of the seats would not arise and nobody would have taken exception to it. That would have been in conformity with the House of Commons practice also. At that stage, the Members continued to be Members. They did not vacate the seats, and any Act passed at that time would have been helpful in continuing them in their seats. But reading through the speech of the Home Minister, I find that they were consulting the lawyers and the lawyers said, "Let us wait till the order is passed". I do not see why they should have waited, because once the opinion of the Election Commission has been submitted, there is no other course under article 103 than for the President to accept it. He has no option in the matter.

[MR. DEPUTY-SPEAKER *in the Chair*]

The Constitution is clear. The Section says "shall act according to such opinion". It is mandatory. In view of this I submit that this Bill could have been brought immediately after the opinion of the Election Commission had been submitted to the President and it would have been passed in no time. But there has been some amount of delay. But the powers of Parliament are still there and we are acting perfectly within the meaning of article 240 by passing this Bill that these Members should not be put to any hardship. I would in this connection like to draw the attention of the House to page 181 of May's Parliamentary Practice. In 1894, in what is known as Leicester case, two Members representing their constituency accepted the Chiltern Hundreds and Manor of Northstead. By that they had to vacate their seats. A writ was issued. Now there should have been two elections. But wrongly only one election was held and Parliament appointed a Select Committee to go into the legality of the election. The Committee held "that the course pursued by the returning officer was erroneous in point of procedure and that the election was not duly held, but recommended that the House should take no action in the matter as the returning officer had acted in the exercise of an honest judgment for the convenience, and with the consent, of all the parties directly concerned in the election, and without any intention of influencing the result". I submit this passage for your consideration.

There is a report of the Select Committee in the House of Commons stating that a particular election was void and yet the Select Committee recommended that no fresh election should be ordered and those Members who had been elected should continue as Members.

If the House of Commons the mother of Parliament, the Cradle of Parliamentary democracy can go to

that extent, I submit, for a disqualification which has been inadvertently incurred by a wrong interpretation of the term 'office of profit' by an Election Commission, those twelve Members should not be disqualified and the Bill should be passed.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

"That the question be now put."

Some Hon. Members: We oppose it.

Mr. Deputy-Speaker: I will leave it to the House. I have called the leaders of various Groups and all the viewpoints have been expressed. It is for the House to accept or not to accept the motion.

Shri Nambiar: Before you give your consent, Sir....

Mr. Deputy-Speaker: I have heard sufficiently. I am thoroughly satisfied that there has been sufficient debate. As I said, it is for the House to accept or not to accept the motion.

Shri Nambiar: That is known, it is a foregone conclusion.

Mr. Deputy-Speaker: Express your opinion and carry the majority with you.

Shri V. P. Nayar (Chirayinkil): Is it possible in this House?

Mr. Deputy-Speaker: The question is:

"That the question be now put."

The House divided : Ayes 212; Noes 64.

Division No. 8] **[12-12 P.M.**

AYES

Abdullabhai, Mulla
Abdus Sattar, Shri
Achuthan, Shri
Agarwal, Prof.
Agarwal, Shri H.L.
Alagesan, Shri
Altekar, Shri
Alva, Shri Joachim
Asthana, Shri
Badan Singh, Ch.
Balasubramaniam, Shri
Barman, Shri
Barupal, Shri P.L.
Basu, Shri A.K.
Bhagat, Shri B.R.
Bhatt, Shri C.
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri
Bose, Shri P.C.
Brajeshwar Prasad Shri
Buragohain, Shri
Chandak, Shri
Chandrasekhar, Shrimati
Chaturvedi, Shri
Chaudhary, Shri G.L.
Chinaria, Shri
Chowdhri, Shri M. Shaffee
Damar, Shri
Damodaran, Shri G. R.
Das, Shri B.K.
Das, Shri K.K.
Das, Shri N.T.
Das, Shri Ramananda
Desai, Shri K.K.
Deshmukh, Shri C.D.
Deshmukh, Shri K.G.
Deshpande, Shri G.H.
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Devaswamy, Shri
Dube, Shri Mulchand
Dube, Shri U.S.
Dubey, Shri R.G.
Dwivedi, Shri D.P.
Dwivedi, Shri M.L.
Elayaperumal, Shri
Fotedar, Pandit
Gadgil, Shri
Gandhi, Shri M.M.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Gautam, Shri C.D.
Ghulam Qadir, Shri
Gopi Ram, Shri
Gounder, Shri K P.
Guha, Shri A.C.
Hari Mahan Dr.
Hazarika, Shri J.N.
Hembrom, Shri
Ibrahim, Shri
Iyyunni, Shri C.R.
Jagjivan Ram, Shri
Jajware, Shri
Jangde, Shri
Jasani, Shri
Jayashri, Shrimati
Jethan, Shri
Jha, Shri Bhagwat
Jhunjhunwala, Shri
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri M.D.
Joshi, Shri N.L.
Jawala Prashad, Shri
Kajrolkar, Shri
Kakkan, Shri
Kale, Shrimati A.
Kamble, Shri
Kanungo, Shri
Katju, Dr.
Kazmi, Shri
Khedkar, Shri G.B.
Khongmen Shrimati
Kirollkar, Shri
Kolay, Shri
Kureel, Shri B.N.
Kureel, Shri P.L.
Lakshmayya, Shri
Lal, Shri R.S.
Lallanji, Shri
Lingam, Shri N.M.
Mahtab, Shri
Maitra, Pandit L.K.
Majhi, Shri R.C.
Malaviya, Shri K.D.
Malliah, Shri U.S.
Malviya, Pandit C. N.
Malviya, Shri Motilal
Mandal, Dr. P.
Masuodi, Maulana
Masuriya Din, Shri
Mathew, Prof.
Matthen, Shri
Maydeo, Shrimati
Mehta, Shri Balwant Sinha
Mehta, Shri B.G.
Mishra, Shri Bibhuti
Mishra, Shri L.N.
Misra, Pandit Lingaraj
Misra, Shri B.N.
Misra, Shri K.D.
Mohd. Akbar Sofi
Mohiuddin, Shri
Morarka Shri
More, Shri K.L.
Muthukrishnan, Shri
Nair, Shri C.K.
Nanda, Shri
Narasimhan, Shri C.R.
Naskar, Shri P.S.
Natawadkar, Shri
Natesan, Shri
Nathwani, Shri N.P.
Nehru, Shri Jawaharlal
Neswi, Shri
Pannalal, Shri
Pant, Shri D.D.
Paragi Lal, Ch.
Parekh, Dr. J.N.
Pataskar, Shri
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patil, Shri Kanavade
Pawar, Shri V.P.
Pillai, Shri Thanu
Prabhakar, Shri N.
Prasad, Shri H.S.
Rachiah, Shri N.
Raghuramaiah Shri
Rahman Shri M. H.
Raj Bahadur, Shri
Raghubir, Sahai Shri
Raghubir Singh, Ch.
Ram Saran, Prof.
Ram Subhag Singh, Dr.
Ramanand Shastri, Swami
Ramananda Tirtha, Swami
Ramaswamy, Shri S.V.
Ranbir Singh, Ch.
Rane, Shri
Reddy, Shri Janardhan
Reddy, Shri Viswanatha
Sahu, Shri Bhagbat
Sahu, Shri Rameshwar
Saigal, Sardar A.S
Saksena, Shri Mohanlal
Samanta, Shri S.C.
Sanganna, Shri
Sankarapandian, Shri
Satish Chandra Shri
Satyawadi, Dr.
Sen, Shri P.G.
Sewal, Shri A.R.
Shah, Shri C.C.
Shah, Shri K.B.
Shahnawaz Khan, Shri
Sharma, Pandit K.C.
Sharma, Prof. D.C.
Sharma, Shri K.B.
Sharma, Shri K.C.
Shukla, Pandit S.
Siddanajappa, Shri
Singh, Shri D.N.
Singh, Shri H.P.

Singh, Shri L.J.
Singh, Shri M.N.
Singh, Shri T.N.
Singhal, Shri S.C.
Sinha, Dr. S.N.
Sinha, Shri A.P.
Sinha, Shri Aniruddha
Sinha, Shri B.P.
Sinha, Shri N.P.
Sinha, Shri Satya Narayan
Sinhasan Singh, Shri
Siva, Dr. Gangadhara
Snatak, Shri
Subrahmanyam, Shri T.
Suresh Chandra, Dr.
Suriya Prashad, Shri
Tek Chand, Shri
Telkikar, Shri
Tewari, Sardar R.B.S.
Thimmaiah, Shri
Thomas, Shri A.M.
Tiwari, Pandit B.L.
Tiwari, Shri R.S.
Tiwary, Pandit D.N.
Tudu, Shri B.L.
Upadhyay, Shri Shiva Dayal
Upadhyay, Shri S.D.
Vaishnav, Shri H.G.
Vaishya, Shri M.B.
Varma, Shri B.B.
Varma, B.R.
Venkataraman, Shri
Vidyalankar, Shri A.N.
Vishwanath Prasad, Shri
Vyas, Shri Radhelal
Wilson, Shri J.N.

NOES

Anthony, Shri Frank
Banerjee, Shri
Barrow, Shri
Basu, Shri K.K.
Biren Dutt, Shri
Boovaraghasamy, Shri
Chaudhuri, Shri T.K.
Chowdhury, Shri N.B.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deo, Shri B.N.S.
Deshpande, Shri V.G.
Giridhari Bhoi, Shri
Jaipal Singh, Shri
Kachiroyar, Shri
Kandasamy, Shri
Khardekar, Shri
Kripalani, Shrimati Sucheta
Krishna, Shri M.R.
Lal Singh, Sardar
Mahata, Shri B.
Majhi, Shri Chaitan
Mascarene, Kumari Annie
Mehta, Shri J.R.
Menon, Shri Damodara
Mishra, Pandit S.C.
Misir, Shri V.
More, Shri S.S.
Mukerjee, Shri H.N.
Muniswamy, Shri
Murthy, Shri B.S.
Nambiar, Shri
Nanadas, Shri
Narasimham, Shri S.V.L.
Nayar, Shri V.P.
Pandey, Dr. Natabar
Pocker Saheb, Shri
Rajabhoj, Shri P.N.
Raghavachari, Shri
Raghavaiah, Shri
Ramasami, Shri M.D.
Ramnarayan Singh, Babu
Randaman Singh, Shri
Rao, Shri Mohana
Razmi, Shri S.K.
Reddi, Shri B.Y.
Reddi, Shri Madhao
Rishang Keishing, Shri
Saha, Shri Meghnad
Sharma, Pandit Balkrishna
Sharma, Shri Nand Lal
Shastri, Shri B.D.
Singh, Shri G.S.
Singh, Shri R.N.
Sinha, Thakur J.K.
Soren, Shri
Subrahmanyam, Shri K.
Sundaram, Dr. Lanka
Swamy, Shri N.R.M.
Trivedi, Shri U.M.
Tulsidas, Shri
Vallatharas, Shri
Veeraswamy, Shri
Waghmare, Shri

The motion was adopted.

Dr. Katju: We have all heard a most eloquent debate and personally to me it has been a matter of great satisfaction to discover such a large fund of constitutional talent in this House and such tremendous love for democracy whatever that may mean.

An Hon. Member: Not of your variety.

Dr. Katju: This Bill, as I ventured to say in the beginning, is a very simple one. I remain of that opinion still. Before I go a little further into it, I should like, at the very outset, to refute most indignantly the charges which have been brought against the Government of what an hon. Member called in his poetic language some *gudbud*, or what my hon. friend the lady Member from Delhi said, there was some hocus-pocus about it.

Shrimati Sucheta Kripalani: I did not use that word.

Dr. Katju: As I said, the thing originated not with any particular Member of the Vindhya Pradesh Assembly. It was a Government measure to associate all Members of the Vindhya Pradesh Legislative Assembly in a District Advisory Council so that they might meet together, consider what affects the district most and say something by way of advice; it was bringing officials and non-officials and nominated Members, together, meeting once a month and then dispersing. There was no question of any executive action behind it; no question of any power or anything like that behind it. I wish to emphasise this, that it was all, in legal language, one transaction. There was no question of discriminating between one Member and another Member. The rules applied to all the Members of all the parties. I think one hon. Member said that the constitution of the Vindhya Pradesh Legislative Assembly was that 40 Members were of one party and 19 were of another party. This Government notification of April, 1952 associating the Members with the District Advisory Councils applied to all equally and made no distinction between one party or another party. The object was quite obvious, namely that they wanted, shall I say, to get the benefit of the local representatives. Some meetings were held and some advice was given. It was all on the Governmental level. I repeat, again, because it is a matter of great importance. It was not a question of any one particular Member seeking to become a Member of the Advisory Council or a group of them. Then, you may say, well you are distinguishing one against the other.

In the month of October, a representation was received here from one of the Members who discovered a legal flaw and he raised this matter before the Vindhya Pradesh Assembly on the floor of that House also. It

has been said: look at this Government of India; from November, December and 15th of January, they were sitting tight over it. The House would recollect that the question that was raised was a question which really raised three questions. I am only trying to analyse the question. Firstly, was the membership of the District Advisory Council an office at all? Secondly, was it an office of profit? And thirdly, what action should be taken and who should decide this controversy? So far as the Constitution was concerned, we have got our articles—article 103 for Members of Parliament, and article 192 probably for Members of the "A" and "B" States Legislatures. And on all these three questions we had to invite the opinion of the Law Ministry and the offices concerned as to whether this was, as I said, number one, an office; number two, an office of profit; number three, what was the procedure. Act III was entirely silent upon it. Act III was passed under article 240 and it may be that by some oversight there was a lacuna in that. And after due consideration, in spite of the fact that the opinion that was given to us was that this was not an office of profit at all—leaving aside whether it was an office at all—we thought it would be better to follow the example furnished in the Constitution in regard to such points, *viz.*, leaving it to the Election Commission to decide.

References have been made, almost personally, to the President. You were pleased to point out in the course of the discussion that it would not be proper to refer to or to say anything personally about the President. He was acting as he was constitutionally bound to do on advice. Now, I wish to say here that the whole thing was examined at length. And please remember this—it is a point which the Attorney-General emphasized also—that the moment a disqualification is incurred, the Member must vacate his seat. Article 104 under the Constitution says—and similarly, I believe article 193—that the moment a Member comes to know that he is disqualified (and the Member is supposed to know the law right from the start) or he becomes disqualified, then he becomes liable to a penalty. Therefore, it was not a question of any declaration of disqualification by any individual.

The Minister of Law and Minority Affairs (Shri Biswas): That is made still more clear by article 101(3) which expressly declares "his seat shall thereupon become vacant".

Dr. Katju: The language is quite clear about it. The only question is: supposing there is a dispute; some say it is an office of profit, and therefore disqualification is incurred, and some people say there is no disqualification at all; in either case, when once a decision is given that a disqualification has been incurred, there is no point in saying that the disqualification arises from the date of the decision. The disqualification must, under the law, date back to the occurring of the disqualification, and if there was a disqualification here, the disqualification arose when those Members, all the 60 Members including the Speaker, were associated with the District Advisory Councils. There was a sort of avalanche and the whole Legislature disappeared. Very well. I take it that there was nothing under the "C" States Act to prevent the Government saying that the President should decide this matter upon advice, advice of the Ministry, but we thought we must follow the example laid in the Constitution itself and we declared on the 14th or 16th January that rule which has been read, by which the President promulgated an order saying "Under section 43 this difficulty or doubt was being removed" and he was now making a rule or order that this doubt should be referred to the Election Commission. As a matter of fact, Sir, you were pleased to suggest that it might be argued that section 43 was not applicable. That is a matter of opinion, but under legal advice, we took that action. Now, the matter went to the Election Commission.

It is not proper for me to discuss the merits or demerits of this decision, but it is permissible to say one thing, that the distinction that the Chief Election Commissioner made came upon every one as a great surprise. What he said was: "This is good, this is good, this is not an office of profit. Well, this is an office." I can understand the decision that it is an office. Then comes the quesion of profit. He says: "T.A. is good because Members have to come; and for them, halting allowance is also good." But he drew a distinction between Resident Members and non-resident Members. This report was submitted by him to the President on the 2nd or 3rd of March. Hon. Members again said that this thing would have been quite all right if this Bill had been introduced in the Assembly before the President promulgated his order giving effect to the advice of the Election Commission. Now, I should have thought that that was a point, again, in our favour. Because I will tell the House quite frankly this. We examined the report and we came to the conclusion almost all at once that on the broader

[Dr. Katju]

grounds, on fairer grounds, on grounds of justice, on grounds of morality and—I go further and say—on the ground of democracy, it was absolutely essential that this so-called disqualification should be removed. And the question before us was, when to do it. The time that elapsed from the 2nd of March or the 3rd of March up to the 30th of March when the President officially promulgated his order formally was taken in legal advice, as he was in doubt as to what was to be done. The whole question was, when was it to be done. We consulted the Law Ministry. We consulted the Attorney General. I am rather sorry that very disparaging remarks were made with reference to him. He is not a member of the Government as in Britain. He is an officer appointed under the Constitution. He is here to give legal advice. He has nothing to do with the policies of Government. He is not a political adviser of Government. He is the legal adviser of Government. We consulted him and we were advised that the only proper constitutional step would be to close the chapter. The President had referred this matter under his own order, under section 43 of the Part C States Act, and closed that by formally giving effect to that decision. He was bound by the advice of the Election Commission. It was not open to the President to say: 'In my opinion'—personally, of course he is not concerned—'in my Government's opinion, in the Attorney General's opinion, this advice is wrong and therefore I refuse to accept it'. He was bound to accept it. Having accepted it, that chapter is closed. Then you bring this legislation before the House because the House is fully competent to entertain it. And you will be pleased to see that that was done. The President promulgated his order on the 30th March and in this very House, the Bill was introduced on the 1st of April. The Bill has been before us. Everything was quite all right. We were just carrying out the process. Then someone said: 'Oh, look at it. The President's order went to Rewa and it was read out by the Speaker and the Members there walked out'. But that was all nothing but a procedural matter. No particular dignity or no particular significance attaches to this.

I am going into these details because there was some suggestion—I was rather sorry to hear it—that there was some sort of 'gulmal' about it. One hon. Member, the leader of the Communist Party, said the lady Member had been very polite and, ladylike, she had been very delicate about these matters; but he was not going to be so delicate; he was going to say so openly that this was a Congress matter. I find that one of the amendments that has been tabled says that in the Bill it should be inserted that this Bill has been passed for the benefit of the Congress Members of the Legislature. I say it is a despicable charge to make in this fashion. (*Interruption*). It has nothing to do with party matter. Mr. Anthony asked this question as to whether we should enact a law every time such cases come up over and over again. Please remember one thing. You say it is anti-democratic. It is democratic because democracy came into function when the election was held. Hon. Members referred to electoral contests—something that is happening every day. Some Members are being unseated because nomination papers were wrongly rejected or some other papers were wrongly accepted. There it was a direct interference with the right of the electorate to have a full opportunity of making a proper selection. What has that got to do with this here? Supposing I am a Member of this Parliament. I was elected 18 months ago and I incurred this disqualification.

Please let me read article 102. Of course, as I said, I admire all the constitutional learning that was spent over this problem but I was somewhat amused too about it. Article 102 says that the disqualification may be of various kinds:

> "(a) if he holds any office of profit;
>
> (b) if he is of unsound mind."

That is, of course, a matter of opinion. He must be a man of unsound mind and stand so declared by a competent court. Then,

> "(c) undischarged insolvent,
>
> (d) if he is not a citizen of India,"

and fifthly, please remember this, this,

> "If he is so disqualified by or under any law made by Parliament."

Now, when these disqualifications have occurred, and have not been removed in the manner authorised by the Constitution or by law, then comes the question of the right of the electorate—if the seat is declared vacant, dates are specified, nomination papers are asked—to come in and function.

I ask you a question. In so far as unsoundness of mind is concerned, undischarged insolvency is concerned, citizenship of India is concerned, Parliament has not been given any voice at all. That is a part of the Constitution. Parliament cannot make an unsound individual a Member of this House or an undischarged insolvent a Member of this House. But, in so far as an office of profit is concerned, they can do it, if he holds an office of profit under the Government of India other than an office declared by Parliament by law not to disqualify the holder thereof....

I wish to draw the attention of the House here to article 193 because it is not only the question of the competence of Parliament; this power is given to every State Legislature. I refer to article 191(1)(a):

> "if he holds any office of profit under the Government of India or the Government of any State... other than an office declared by the Legislature of the State by law not to disqualify its holder."

Supposing the Part C States had been governed by article 191, it would have been open to the Vindhya Pradesh Legislature, if they had wanted to, to pass this very law; and we have had to come to Parliament for the simple reason that the Part C States are governed by an Act passed by this Parliament and under the supervision of this Parliament. If this case had arisen in any Part A or Part B State, Parliament would not have been consulted, Parliament would not have been bothered. They would have been completely entitled to pass this legislation there.

Now, I say there was a good deal of discussion about the morality of this, the justice of it and the fairness of it. I would say that it would be almost iniquitous to punish these twelve people or twenty people—does not matter to me in the least—simply because they were acting perfectly *bona fide*. It was the wish of the Government that they should like to associate the entire Legislature in daily administration.

Shri Frank Anthony (Nominated—Anglo-Indians): Nobody has questioned the *bona fides*.

Dr. Katju: And the result is, that objection was taken as I said to the entire Legislature being allowed to function. The Election Commission said, 'I will not go so far as that; I will stick to twelve people'. Has any single word been said against those twelve people or their *bona fides*? Has anyone questioned their *bona fides*? How are they to blame? If you are going to set aside the whole political atmosphere of Vindhya Pradesh and order twelve general elections, then I say that it is not only the Members of the Legislature who are entitled to complain, but it is the public of Vindhya Pradesh who are entitled to complain. They might ask, "What have we done? Why should our elected Members be disqualified in this way? Why should we be made to go through the throes of a general election?" A general election is no small matter. I can understand defeated people saying that they would like to try again in the name of democracy, but where does democracy come in in this case? Whose democracy is being taken away? Here, Parliament is declaring, after due consideration, that this is not an office of profit. My hon. friend Mr. Shah would permit me as an elderly person to say that he made a most admirable speech. He pointed out, "You have already passed in this House Act XLVIII of 1951, where you yourself have said that such and such an office—Chairman of this Committee—Chairman of the Fiscal Commission—Chairman of the Finance Commission—and so on would have nothing to do with this matter. You have yourself said that they would not be disqualified, not merely not disqualified today but not disqualified from the very start." Now, the fact that the matter had not been referred to the Election Commission in those cases was purely accidental. Probably, it did not occur to anybody. Otherwise, if there had been a contentious atmosphere—as evidently there is in Vindhya Pradesh today—it was open to anyone to appeal to the President and say that the Chairman of the Finance Commission or the Member of some other body had incurred the disqualification and article 103 had been attracted, and the President would have given his decision. More and more appeals are made to the provision in the Constitution regarding disqualification, more especially by my hon. friend belonging to the Communist Party. He said that the Election Commission was a pillar of the Constitution, and he said that he was prepared to tear up the Constitution when the occasion arose or when he got power. But why? Article 102 says: "If he holds any office of profit ... other than an office declared by Parliament by law not to disqualify its holder ....." Now, is there any time-limit fixed? Does this legislation say that you cannot declare any particular office not to be

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an office of profit after such and such a date? I am talking of Members of Parliament. In the case of Parliament, supposing some Member unwittingly accepts an invitation—whether it is from this party or that party, it does not matter—supposing Government makes an offer and he accepts it, and it is subsequently discovered that the post is, or may be argued to be, an office of profit, then what happens? Now, the Election Commissioner is an officer. He is not the President. He is an officer, may be highly qualified; may be a judicial officer. But judges make mistakes—Supreme Court judges, everybody makes mistakes. Where is it said under article 102 that it would not be open to Parliament to correct it? It can correct it in this way, *viz.*, by saying that not only was this not an office of profit at that particular time, but it was not an office of profit right from the start. As far as I can see, it would then be open to the President to say that the previous decision had to be reviewed, because the law had now been changed. It is not a question of supremacy of Parliament. We all accept it. But others said: it may be a legal situation; it may be a sort of immoral situation; we are trampling the Constitution under our feet; we are flouting democracy; we are establishing a precedent which will do us immeasurable harm—and so on and so forth. With great respect and without any idea of offending anybody, I say that all that is pure eloquence; it has nothing to do with the details of the matter. As the House of Commons does, let us take this individual case into consideration, and let the precedent be found here. Has the member concerned acted in good faith? Has he been labouring under a mistake? If he has been labouring under a mistake, well, he ought to be relieved, his constituency ought to be relieved. Why should the constituency be deprived of the services of its Member; why should that constituency be asked to bear enormous expenditure and undergo all the hullabaloo to be faced with a crisis once again.

So far as the Part C States are concerned, as the Attorney General pointed out to you, the matter is still clear. The Constitution does not come into play at all. There is no question of your saying that Parliament is virtually amending article 103 or article 192. The whole thing has been done by Parliament as the Attorney General advised us. He said it is only a question of amending an Act of Parliament itself and that is what is being done here.

I would request hon. Members to consider this measure in a spirit of detachment. I entirely agree that this should not be made a party matter, because speaking broadly, the honour of the House is concerned. Consider it from a broader angle. One hon. Member said: well, the Congress people in the State Assembly consist of 40 and of the twelve people who have been disqualified eleven are Congressmen and one of them belongs to some other party; so it is only an attempt of the Congress to keep their hold, or to keep the Government in their clutches. Is that the consideration? (*An hon. Member from the Opposition Benches:* Yes.) Can any one speaking fairly, in his heart of hearts—not sitting on those benches—point his accusing finger at a single individual and say that he has done this wrong deliberately. As I said I do not want to sit in judgment over the decision of the Election Commission; but had this question been open to be mooted before a High Court or the Supreme Court, and some competent lawyer, more competent than me, were to be there, it would have been said that in the first place this was not an office at all. They were Members of an Advisory Council, convened once a month. It is not an office. Secondly, where is the profit? They are paid a conveyance allowance of say, five rupees, to go to the Collector's House. It is absurdity.

The hon. lady Member said: "You are making yourselves ridiculous." I would retort by saying, that she was making herself ridiculous by putting forward this argument.

So, I sum up by saying, as the Attorney General said, in the first place this matter from the legal point of view, is absolutely crystal clear, beyond controversy. This Parliament is the maker of the Part C States. This Parliament has passed an Act constituting the Part C States. Whatever is to be done about the Part C States in any shape or form, can be done by this Parliament, can be modified, can be amended—everything.

It was also argued that under article 240, article 103 or article 192 should be taken to have been incorporated, and therefore, cannot be changed. That argument is fallacious. Under article 102 and article 192 Parliament here and State Legislatures are given absolute, undisputed and plain powers to declare any office not to be an

office of profit. Examples have been given of Dr. Ambedkar and Prof. Mahajani....

Pandit S. C. Mishra (Monghyr North-East): The hon. Minister quoted article 102. Does he mean to say that the word "declare" is the same as "to be declared".

Dr. Katju: Makes no difference whatsoever. Declared at any time—declared in 1950, 1951, 1952, 1954 or 1956—any time, before a decision, after a decision, makes no difference whatsoever.

I may go so far as to say that if a dispute arises and action under article 103 is taken and the Election Commission declares that a disqualification has been incurred, it is open to this Parliament to say that in our opinion this is not an office of profit. People have been referring to democracy. What is this House? Is it not a democratic House? Simply because you do not happen to be in the majority you say it is not a democratic House!

Mr. Deputy-Speaker: May I put it this way? When the President has given an opinion and passed an Order that this is an office of profit, Parliament, instead of saying that this is not an office of profit, only says that this shall not be deemed to be an 'office of profit'. It can be exempted from being an 'office of profit' for this purpose.

Dr. Katju: Before I sit down, because I do not want to prolong this, I wish to refer to one point. Something was said about the dignity and the status of the President. No one is more anxious than we on this side of the House that the President should not be brought into this discussion. But it has to be remembered that the President acts on advice. If there is any mistake, the President does no wrong. It is the advice-giver who does some wrong, always.

Shri S. S. More (Sholapur): Is not the hon. Minister criticising the verdict of the Election Commission? And is it permissible?

Mr. Deputy-Speaker: He is not criticising.

Shri S. S. More: He says the advice-giver to the President is wrong. That is the Election Commission.

Shri B. S. Murthy (Eluru): Is it the intention of the Home Minister to say that the Election Commission who tendered advice was wrong?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): The Government.

Dr. Katju: I do not wish to say anything. Poor Election Commission is not here. Everybody may be wrong, there is no infallibility. I say this that Parliament can declare an office of profit not to cause a disqualification, whatever the opinion of the Election Commission may be.

I do not want to say further but I do say that the Bill should be taken into consideration.

Shri Frank Anthony: May I ask....

Mr. Deputy-Speaker: No more. We have had enough discussion. The question is:

> "That the Bill to declare certain offices of profit not to disqualify their holders for being chosen as, or for being, members of the Legislative Assembly of the State of Vindhya Pradesh, be taken into consideration."

The House divided: Ayes 21: Noes 60

Division No. 9] **1 P.M.**

AYES

Abdus Sattar, Shri
Achuthan, Shri
Agarwal, Prof.
Agarwal, Shri H.L.
Altekar, Shri
Alva, Shri Joachim
Asthana, Shri
Badan Singh, Ch.
Balasubramaniam, Shri
Bansal, Shri
Barman, Shri
Barupal, Shri P.L.
Basu, Shri A.K.
Bhagat, Shri B.R.
Bhatt, Shri C.
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri
Borooah, Shri
Bose, Shri P.C.
Brajeshwar Prasad, Shri
Buragohain, Shri
Chandak, Shri
Chandrasekhar, Shrimati
Chaturvedi, Shri
Chaudhary, Shri G.L.
Chinaria, Shri
Chouudhri, Shri M. Shaffee
Dabhi, Shri
Damar, Shri
Damodaran, Shri G.R.
Das, Shri B.K.
Das, Shri K.K.
Das, Shri Ramananda
Desai, Shri K.K.
Deshmukh, Shri C.D.
Deshmukh, Shri K. G.
Deshpande, Shri G. H
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Digambar Singh, Shri
Doraswamy, Shri
Dube, Shri Mulchand
Dube, Shri U.S.
Dubey, Shri R.G.
Dwivedi, Shri D.P.
Dwivedi, Shri M.L.
Ebenezer, Dr.
Elayaperumal, Shri
Fotedar, Pandit
Gadgil, Shri
Gandhi, Shri M.M.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Gautam, Shri C.D.
Ghulam Qadar, Shri
Gopi Ram, Shri
Gounder, Shri K.P.
Guha, Shri A.C.
Hari Mohan, Dr.
Hazarika, Shri J. N.
Hembrom, Shri
Hyder Husein, Ch.

Ibrahim, Shri
Iyyunni, Shri C.R.
Jagjivan Ram, Shri
Jajware, Shri
Jangde Shri
Jasani, Shri
Jayashri, Shrimati
Jethan, Shri
Jha, Shri Bhagwat
Jhunjhunwala, Shri
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri M.D.
Joshi, Shri N.L.
Jwala Prashad, Shri
Kakkan, Shri
Kale, Srimati A.
Kamble, Shri
Katju, Dr.
Keshavaiengar, Shri
Khan, Shri Sadath Ali
Khedkar, Shri G.B.
Khongmen, Shrimati
Kirolikar, Shri
Kolay, Shri
Kureel, Shri B.N.
Kureel, Shri P.L.
Lakshmayya, Shri
Lal, Shri B.S.
Lallanji, Shri
Lingam, Shri N.M.
Lotan Ram, Shri
Mahtab, Shri
Maitra, Pandit L.K.
Majhi, Shri R.C.
Malaviya, Shri K.D.
Mallick, Shri U.S.
Malviya, Pandit C.N.
Malviya, Shri Motilal
Mandal, Dr. P.
Masuodi, Maulana
Masuriya Din, Shri
Mathew, Prof.
Matthen, Shri
Maydeo, Shrimati
Mehta, Shri B.G.
Mishra, Shri Bibhuti
Mishra, Shri L.N.
Mishra, Shri Shyam Nandan
Misra, Pandit Lingaraj
Misra, Shri B.N.
Misra, Shri R.D.
Mohd. Akbar, Sofi
Mohiuddin, Shri
Morarka, Shri
More, Shri K.L.
Muthukrishnan, Shri
Nair, Shri C.K.
Namdhari, Shri
Nanda, Shri
Narasimhan, Shri C.R.
Naskar, Shri P.S.
Natawadkar, Shri
Natesan, Shri
Nathwani, Shri N.P.
Nehru, Shri Jawaharlal
Neswi, Shri
Pannalal, Shri
Pant, Shri D.D.
Pataskar, Shri
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patil, Shri Kanavade
Patil, Shri Shankargauda
Pawar, Shri V.P.
Pillai, Shri Thanu
Prabhakar, Shri N.
Prasad, Shri H.S.
Rachiah, Shri N.
Raghuramaiah, Shri
Raj Bahadur, Shri
Raghubir Sahai, Shri
Raghubir Singh, Ch.
Ram Saran, Prof.
Ram Subhag Singh, Dr.
Ramananda Tirtha, Swam
Ramaswamy, Shri S.V.
Ranbir Singh, Ch.
Rane, Shri
Reddy, Shri Janardhan
Reddy, Shri Viswanatha
Sahu, Shri Bhagbat
Saigal, Sardar A.S.
Saksena, Shri Mohanlal
Samanta, Shri S.C.
Sanganna, Shri
Sankarapandian, Shri
Satish Chandra, Shri
Satyawadi, Dr.
Sen, Shri P.G.
Sewal, Shri A.R.
Shah, Shri C. C.
Shah, Shri R.B.
Shahnawaz Khan, Shri
Sharma, Pandit K.C.
Sharma, Prof. D. C.
Sharma, Shri K.R.
Sharma, Shri R.C.
Shukla, Pandit B.
Siddananjappa, Shri
Singh, Shri D.N.
Singh, Shri H.P.
Singh, Shri L.J.
Singh, Shri M.N.
Singh, Shri T.N.
Singhal, Shri S.C.
Sinha, Dr. S.N.
Sinha, Shri Aniruddha
Sinha, Shri B.P.
Sinha, Shri G.P.
Sinha, Shri N.P.
Sinha, Shri Satya Narayan
Sinhasan Singh, Shri
Siva, Dr. Gangadhara
Snatak, Shri
Subrahmanyam, Shri T.
Suresh Chandra, Dr.
Suriya Prashad, Shri
Tandon, Shri
Tek Chand, Shri
Telkikar, Shri
Tewari, Sardar R.B.S.
Thimmaiah, Shri
Thomas, Shri A.M.
Tivary, Shri V.N.
Tiwari, Pandit B.L.
Tiwari, Shri R.S.
Tiwary, Pandit D.N.
Tudu, Shri B.L.
Upadhyay, Shri Shiva Dayal
Upadhyay, Shri S.D.
Vaisnav, Shri H.G.
Vaishya, Shri M.B.
Varma, Shri B.B.
Velayudhan, Shri
Venkataraman, Shri
Vidyalankar, Shri A.N.
Vishwanath Prasad, Shri
Vyas, Shri Radhelal
Wilson, Shri J.N.

NOES

Anthony, Shri Frank
Banerjee, Shri
Basu, Shri K.K.
Biren Dutt, Shri
Boovaraghasamy, Shri
Chaudhuri, Shri T.K.
Chowdary, Shri C.R.
Chowdhury, Shri N.B.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deo, Shri B.N.S.
Deshpande, Shri V.G.
Giridhari Bhoi, Shri
Jaipal Singh, Shri
Khardekar, Shri
Kripalani, Shrimati Sucheta
Krishna, Shri M.R.
Lal Singh, Sardar
Mascarene, Kumari Annie
Mehta, Shri J.R.
Menon, Shri Damodara
Mishra, Pandit S.C.
Misir, Shri V.
More, Shri S.S.
Mukerjee, Shri H.N.
Murthy, Shri B.S.
Namoliar, Shri
Nanadas, Shri
Narasimhaiah, Shri S.V.L.
Nayar, Shri V.P.
Pandey, Dr. Natabar
Patnaik, Shri U.C.
Pocker Saheb, Shri
Rajabhoj, Shri P.N.
Raghavachari, Shri
Raghavalan, Shri
Ramaswami, Shri M.D.
Ramdarayan Singh, Babu
Ramdhan Singh, Shri
Rao, Shri Mohana
Razmi, Shri S.K.
Reddi, Shri B.Y.
Reddi, Shri Madhao
Rishang Keishing, Shri
Sinha, Shri Mohamad
Sharma, Pandit Balkrishna
Sharma, Shri Nand Lal
Shastri, Shri B.D.
Singh, Shri G.S.
Singh, Shri R.N.
Sinha, Thakur J.K.
Soren, Shri
Subrahmanyam, Shri K.
Sundaram, Dr. Lanka
Swamy, Shri N.G.M.
Trivedi, Shri U.M.
Tulsidas, Shri
Vallatharas, Shri
Veeraswamy, Shri
Waghmare, Shri

The motion was adopted.

Mr. Deputy-Speaker: The House will now stand adjourned to meet again at 8-15 A.M tomorrow.

The House then adjourned till a Quarter Past Eight of the Clock on Wednesday, the 13th May, 1953.